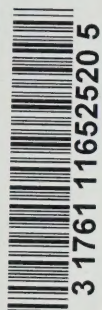


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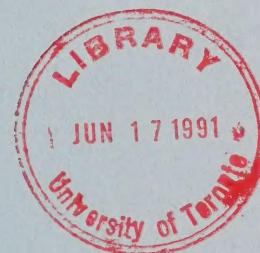
VOLUME: 318

DATE: Tuesday, June 4, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member



FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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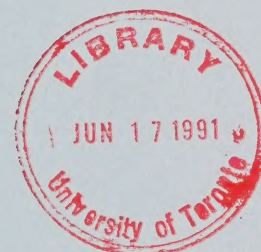
VOLUME: 318

DATE: Tuesday, June 4, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member



FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416) 963-1249

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the Red Dog Inn, 200 Stewart
Street, Fort Frances, Ontario, on Tuesday,
June 4th, 1991 commencing at 9:00 a.m.

VOLUME 318

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



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I N D E X O F P R O C E E D I N G S

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I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1879	Witness statement and C.V. of Dr. P. Poole.	56129
1880	Document entitled "Caring for the World: A strategy for Sustainability", prepared by the World Conservation Union, the United Nations Environment Program, and the World-Wide Fund for Nature.	56171
1881	Document entitled "Working Group One. Canadian Statement on Deforestation and a Proposal for a Global Forest Convention."	56177
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1480B	Six-page document with covering letter dated May 24, 1991 from Catherine Blastorah re: FFT Panel No. 2.	56260

1 ---Upon commencing at 9:05 a.m.

2 MADAM CHAIR: Good morning, Mr. Colborne.
3 Good morning, Mr. Poole.

4 DR. POOLE: Good morning.

5 MR. COLBORNE: Madam Chair, as you know
6 from the filed material, my Panel 4 evidence concerns
7 what is entitled "The International and National
8 Perspectives". The emphasis, however, will be on
9 international, and the content of the witness statement
10 which we will be filing, but which -- we will be filing
11 as an exhibit, but which has already been filed
12 informally, does focus on the international context for
13 the points which Grand Council Treaty #3 wishes to
14 bring before this hearing.

15 The reason why we are bringing this
16 evidence, simply to give you a bit of context here,
17 whereas you may not be hearing this from any of the
18 other parties, or at least certainly not from all of
19 them, is that the proposals which Grand Council Treaty
20 #3 are bringing forward are sometimes dismissed or at
21 least not given the weight that my clients think they
22 ought to be given because they are perceived as being
23 novel or they are perceived as being radical or they
24 are perceived as being impractical or any number of the
25 these quick labels that could get attached to proposals

1 which are brought forward in good faith but which are
2 then dismissed by those who don't care to examine them
3 or who are threatened by them.

4 And because of that tendency, it is my
5 client's position that it would be useful for the Board
6 to have just at least some outline information about
7 what is happening in other countries. And the witness
8 who I am calling today, I will be asking that he be
9 qualified to give opinion evidence on that topic, and I
10 hope that we will be able to focus on certain points
11 which are of great interest and, I hope and would be
12 submitting in the end, are of application in Canada as
13 well.

14 This hearing has been extending for quite
15 a long period of time as we all know very well; and in
16 some respects, events have been overtaking some of the
17 evidence. And you will be hearing from this witness,
18 for instance, of some developments which have happened
19 in recent years in other countries, and whereas today
20 they may sound like something that is not likely to
21 happen in Canada, simply given what has happened with
22 the overall issue of forestry in the last very few
23 years, even while this Board has been sitting, it may
24 be that by the time the close of evidence is reached,
25 that some of these examples from other countries will

1 no longer look like merely abstract ideas but may in
2 fact be very much on the agenda by that time.

3 That's a bit of a lengthy introduction,
4 but I thought I should say a few words about this panel
5 because it may not have been readily apparent where it
6 fits into the scheme of things, and that's my effort to
7 do that.

8 Having said that, I do introduce Dr.
9 Peter Poole, and I would like to begin by asking him a
10 few questions about his background in order to support
11 my request that he be qualified to give opinion or
12 expert evidence on certain points.

13 MADAM CHAIR: Excuse me, shall we make
14 Dr. Poole's witness statement an exhibit now, Mr.
15 Colborne?

16 MR. COLBORNE: Yes, please.

17 MADAM CHAIR: Dr. Poole's witness
18 statement for Panel No. 4 will be Exhibit 1879. And do
19 you want to include Dr. Poole's CV in the witness
20 statement.

21 MR. COLBORNE: Yes, please.

22 ---EXHIBIT NO. 1879: Witness statement and C.V. of Dr.
23 P. Poole.

24 DIRECT EXAMINATION BY MR. COLBORNE:

25 Q. Dr. Poole, just a few brief questions

1 about your academic and career background as it relates
2 to the material in the witness statement. Firstly,
3 could you sketch how your academic background relates
4 to this type of information and this type of work that
5 you have been doing recently.

6 A. Yes. My academic career started in
7 London University where I specialized in sociology and
8 economics. I had wanted to study anthropology but this
9 was prevented by the way that academic things were
10 arranged in England at the time.

11 Since then, I moved into geography and I
12 then spent some years doing a Masters' degree at
13 Columbia University in New York and at that point I
14 broadened my interests to include conservation ecology.
15 And in the mid-sixties, I did a Masters' thesis on the
16 use of wild animal populations for sustainable economic
17 development in East Africa.

18 I then went to work for a number of years
19 and returned about ten or twelve years ago to do a
20 Ph.D. at McGill University and at that point I managed
21 to -- my thesis work combined my sort of sociological/
22 economic background with my environmental training to
23 concentrate on the relationships between northern
24 hunting communities and conservationists, the various
25 kinds of issues that engage their interests, and the

1 political and the ecological perspectives on these
2 issues.

3 And in between that, I did acquire a more
4 technical speciality. I also do quite a lot of work
5 with remote sensing and aerial photography in
6 connection with my environmental work.

7 Q. What about your career and
8 professional work as it relates to the material in the
9 witness statement, and I am not referring now to any
10 current projects or recent projects, but just the
11 general trend of your career up till now. What parts
12 of it have given you special knowledge in the areas
13 that you have written about in your witness statement?

14 A. In the early '70s I worked for --
15 after a period at an aerial training institute in
16 Holland, I worked for four years -- three years, four
17 years, with Parks Canada. My job at the time was to
18 plan new national parks in the North and I spent four
19 years doing that, according to the principles laid down
20 by Parks Canada for planning new parks.

21 And towards the end of that period,
22 having so to speak put a lot of green potential areas
23 on the map, I was then asked to start discussing these
24 with the communities that lived in the area. Some of
25 the areas had communities very close to these potential

1 parks; some of them were quite remote.

2 But that is when I encountered a
3 different attitude towards national parks than that
4 which prevails in the South, in the Metropolitan areas
5 of the South particularly, where in the North national
6 parks are not necessarily being seen as a good thing, a
7 necessary thing, but even seen to be a form of
8 conflict. And it was at that point that I went back to
9 university and did my Ph.D. pretty well on that
10 subject.

11 And after that, from about 1979, 1980,
12 onwards, I have been working as a freelance, and my
13 work has pretty well been defined, I guess, as working
14 with some government organizations, some indigenous
15 organizations and communities, and usually in two main
16 areas.

17 One is where indigenous people get
18 involved in conservation in one form or another; and
19 the other one is where I have been involved in
20 assisting or collaborating with indigenous groups in
21 developing their sort of local renewable resources.

22 And there is a considerable amount of
23 overlap between these two areas, conservation on one
24 side and resource utilization on the other, and I guess
25 it's that overlap area that interests me most because

1 it is where people become involved in conservation and
2 that sort of work is always trying to look at, define
3 what is sustainable and what is not.

4 Q. What about current or recent
5 projects?

6 A. Well, I recently worked with the --
7 this is an example of the kind of things I do. I
8 recently worked with a community of, the Inuit
9 community of of Sanikiluaq in the Belcher Islands in
10 James Bay, and I was part of a team that was drawn
11 together by the Boreal Institute in Edmonton, part of
12 the University of Alberta in Edmonton.

13 And what we did was work with the local
14 hunters and trappers' association on developing a
15 reindeer management plan for the islands. Reindeer
16 were recently introduced there, recently being fifteen
17 years ago, and the herd that was introduced has grown
18 quite strongly and now the people who live in the
19 islands are very concerned that they should not exceed
20 the carrying capacity of those islands. So my
21 contribution to this was aerial survey to enumerate the
22 reindeer and to advise and assist the community in
23 developing their own methods of ground survey which
24 they have done very well.

25 Now, what has emerged from this two- or

1 three-year project is a local reindeer management
2 regime that is run by the hunters and trappers and
3 incorporates partly their local traditional knowledge
4 of reindeer movement and partly those, let's say,
5 scientific, western scientific techniques, such as
6 carcass analysis which they found useful in this sort
7 of combined regime.

8 Other work that I -- about four years
9 ago, I did quite a comprehensive study for the World
10 Bank, the environmental division of the World Bank,
11 Latin American environmental division, in which they
12 asked me to look at the situation in North and South
13 America. And I have had a certain amount of experience
14 of cases in North America where indigenous
15 organizations have become involved in conservation in
16 one way or another.

17 And what I did was quite a lot of field
18 work in Latin America, in Costa Rica, Panama, Ecuador,
19 and Colombia, and I had contributing papers covering
20 other areas, and I compared the two general geographic
21 regions to see what sorts of similarities were there
22 which could lead to useful guidelines for World Bank.

23 The World Bank, by the way, had three
24 years before that introduced the first example of a
25 policy towards indigenous people on the part of a large

1 international development agency, and this was an
2 extension of that work. I was in fact working for the
3 person who wrote that, Robert Goodland, who wrote that
4 original policy.

5 And that work has since been produced as
6 a World Bank working paper and was this year translated
7 into Spanish. It is seen widely as a useful resource
8 because it contains a lot of case studies about what
9 people are doing in various areas.

10 I think from that one interesting
11 commonality that emerged was the importance for the
12 community or the organization concerned of having
13 secure, confirmed access to the resources that they
14 considered to be traditionally theirs. This could take
15 the form of simply saying that this community has prior
16 rights over a sustainable yield for fish or it could be
17 a land claim agreement such as those we are familiar
18 with in North America.

19 In Latin America, the issue that one
20 comes across again and again is the question of
21 demarcation, demarcation of indigenous land, whether it
22 is legal or on the ground. That project I did a few
23 years ago.

24 Recently, this year in fact -- that
25 report was sent down to people in Colombia and they

1 asked me to come down and help them develop a project
2 on these lines, so I spent a month last spring in
3 Colombia, talking with indigenous organizations,
4 talking about developing a project with a view to
5 getting funding from the Canadian-Government.

6 And the situation in Colombia is very
7 interesting because about three years ago the
8 government, President Barco, past-president, pretty
9 well signed over into communal ownership about half the
10 total area of the Colombian Amazon, which by the way is
11 in many respects in better shape than the Brazilian
12 Amazon rainforest.

13 The result of this was that an area about
14 the size of the United Kingdom is now owned, surface
15 rights only, biological resources only, not subsurface
16 rights, but is now vested in communal ownership and
17 cannot be sold, an area the size of the United Kingdom,
18 the ownership of 70,000 people.

19 And the objective of the project that was
20 developed while I was down there was to head in the
21 same direction as the Sanikiluaq project, which I
22 mentioned earlier, which is indigenous communities
23 doing their own research and their own management of
24 their own resources.

25 And we have a project running right now

1 which is funded by the Canadian Government, and in
2 about five months from now we expect a series of
3 proposals to come out of it to do projects in
4 community-based environmental research in the Colombian
5 Amazon.

6 I might mention finally a project which
7 just started actually last week, another project which
8 is in a sense an extension of this World Bank survey I
9 did about five years ago, and this project is being
10 funded by CEDA, and the money will go to the Dene
11 Cultural Institute in Yellowknife, and they will be
12 collaborating with a counterpart organization in
13 Colombia, a national Indian organization called
14 Autoridades Indigenas de Colombia, which means -- which
15 is AIC, I should just call it that.

16 And the object of this joint project is
17 to produce a data base in Spanish and English of cases
18 where indigenous people get involved in conservation in
19 one way or another. And this ranges from environmental
20 impact assessment to the use of indigenous knowledge to
21 conservation areas. We have a wide framework for the
22 data base.

23 And the object of it is to put this at
24 the service of organizations, not necessarily
25 indigenous, but also conservation organizations that

1 - require this sort of information for whatever they are
2 doing. Specifically, it is going to be placed at the
3 disposal of those organizations which are attending
4 conferences in '92, such as UNCED, Brazil, and several
5 other conferences that were mentioned in the brief that
6 I wrote.

7 That pretty well brings me up to where I
8 am now except that I have always got about, as a result
9 of this World Bank thing going around, I have now got
10 about at least four to five indigenous groups in Latin
11 America who would like me to find money for them to do
12 their projects in South America, and I am working on
13 ways of doing that now.

14 Q. Just one question about your current
15 projects of developing a data base regarding indigenous
16 people and conservation. Is there such a data base
17 now?

18 A. No, the closest thing to it is one
19 that originated in Ames, Iowa, and is called CIKARD,
20 which stands for Centre for Indigenous Knowledge,
21 Agriculture and Rural Development. And that is
22 something that is being going for about 13 years, run
23 by a fellow called Michael Warren, an anthropologist.

24 Their network is doing equivalent work,
25 but the focus is more in agriculture and rural

1 development rather than conservation, though I think
2 that there is a considerable amount of overlap.

3 Leiden University in Holland has a
4 similar program called LEDP, which is Leden
5 Ethnosystems and Development Project.

6 As far as I know, those are the only two
7 networks, and we will be working with them - there is
8 no question about that - because there is such a lot of
9 overlap.

10 MR. COLBORNE: Madam Chair, I asked the
11 witness to say a fair bit about his background before
12 asking that he be qualified because the area that we
13 are referring to here isn't one that is readily
14 familiar to most people.

15 Having heard his evidence just now and
16 having examined his curriculum vitae, I am asking that
17 he be qualified to give opinion evidence in the
18 following area: the ways in which indigenous
19 communities get involved in conservation, and
20 community-based renewable resource utilization, and
21 the --

22 MR. MARTEL: My shorthand isn't that
23 quick. Will you give me the second one again.

24 MR. COLBORNE: Yes. Community-based
25 renewable resource utilization, and the inter-relations

1 between the two.

2 The grammar may not be all that great but
3 maybe ten years from now we will be much more familiar
4 with these topics and we will just have a couple of
5 catch phrases that everybody will understand.

6 MADAM CHAIR: Are there any objections to
7 Dr. Poole being qualified as such?

8 MR. FREIDIN: No.

9 MS. GILLESPIE: No.

10 MADAM CHAIR: Fine, thank you.

11 Please proceed, Mr. Colborne.

12 MR. COLBORNE: Q. Dr. Poole, you are the
13 author of Exhibit 1879, entitled "Canadian Indian
14 Forest Issues in an International Context"?

15 A. Yes.

16 Q. The language in the document is, I
17 find it to be fairly compressed, and so I am going to
18 ask you to expand on certain portions of it. It's
19 certainly not necessary, Dr. Poole, to repeat anything
20 particularly that's in it. If I ask you a question
21 where it is appropriate for you just to refer me to a
22 portion of it, that is a satisfactory answer because
23 the document has been filed and has been read by the
24 Board.

25 The first question I would like to ask

1 you is could you just tell us about this Bamfield
2 conference referred to in paragraph 1. I understand
3 that just occurred?

4 A. Yes, it occurred at the end of March.

5 It flowed from a conference, more a
6 meeting that I was invited to in England last July,
7 which was convened by an organization called the Gaia
8 Foundation, which in turn runs a thing call the Forest
9 Peoples' Fund, which raises money, in Europe mainly, in
10 order to make small amounts rapidly available to
11 people, Forest Peoples' organizations who need to get
12 to a meeting, need to get a lawyer, need something not
13 too expensive, and fast, and they have a network of
14 course.

15 And the meeting was called because of
16 concern amongst the NGO community, an indigenous
17 community, about the move towards a World Forest
18 Convention as a successor to the Tropical Forest Action
19 Plan, which was originally perceived as being the
20 solution or part of the solution for deforestation, and
21 in fact hasn't proved to be so, and even some of its
22 originators, such as the World Resources Institute have
23 accepted that, that it hasn't worked.

24 And it hasn't worked to the extent that
25 deforestation has doubled since it was implemented five

1 or six years ago -- the rate of deforestation, rather.

2 Now the World Forest Convention may or
3 may not simply be like the Tropical Forest Action Plan,
4 but extended out of the tropics with the same actors
5 and the same eventual consequences. So the object of
6 that meeting was to say: Do you as indigenous
7 organizations want to participate in the process,
8 intervene in the process, or go for something that's a
9 free-standing competitor, if you like, or complement to
10 the World Forest Convention?

11 And one of the points I made at this
12 meeting, as the only sort of person from the
13 northern -- from non-tropical areas, and I had checked
14 this out with several indigenous groups here before
15 going. I said that if you want to have a World Forest
16 Convention or to address a World Forest Convention,
17 then your constituency should also include boreal and
18 temperate forests.

19 And for that reason, this led to a second
20 meeting and that meeting was in Bamfield, and the idea
21 was to draw in or invite representatives from other
22 organizations in the temperate and boreal region to
23 consider the same points that had been considered at
24 Hassocks (phoen.), at the earlier meeting.

25 And the meeting eventually -- it went

1 through another stage of organization where the groups
2 from Latin America said they would like to come, which
3 were both tropical and temperate forest people from
4 there, so it turned out to have two objectives. One
5 was to consider these objectives of what we do about a
6 World Forest Convention; and the other one was to do
7 about how do we, Indian Groups in North and South
8 America, develop a working relationship.

9 Now out of that meeting, which was held
10 at the end of March, it was attended by Canadian Indian
11 groups involved in forestry from across the country and
12 representatives of nine community-based forest
13 management/forest protection projects in Latin America,
14 and most of them were Indians. They are all Indian
15 communities.

16 And the meeting considered these options
17 that I mentioned earlier on. And as a result of the
18 meeting, two things have happened. One is the meeting
19 adopted another I guess action in progress called the
20 Forest Peoples' Charter. Now the Forest Peoples'
21 Charter is a project of the World Rainforest Movement
22 and The Ecologist magazine in England.

23 And what they are trying to do is what
24 they believe that the agencies working towards the
25 World Forest Convention are not doing, which is

1 consulting people who live in forests about the content
2 of the convention or of a possible convention.

3 And I think their assertion holds water
4 because as far as I can tell from what I hear in
5 various quarters, the World Forest Convention still
6 seems to be a matter of argument amongst various
7 agencies such as FAO, UNEP, IUCN, about who should be
8 the author of the convention rather than what should
9 its contents be.

10 So the organization working on this
11 Forest Peoples' charter are going to Forest Peoples'
12 organizations around the world and saying: What would
13 you like to see in such a charter? How can we
14 represent your opinion?

15 Someone from The Ecologist, Nicholas
16 Hilldiard, was there. He presented the Forest Peoples'
17 charter to the meeting as something you might like to
18 consider; and as a result of that, the groups decided
19 to take it further.

20 We had it translated into the Spanish,
21 the synopsis of the charter, and the Latin American
22 groups are right at this moment -- it has just been
23 presented to a regional meeting of Indian groups in
24 Peru, and this Andean region, and it is going to be
25 presented at the end of next month in Mexico as a

1 subject for discussion amongst Indian and Forest
2 Peoples' organizations from Central America.

3 So as a result of the Bamfield meeting,
4 that Forest Peoples' charter has been disseminated
5 amongst quite a lot of groups throughout America, and
6 what they are aiming at is some sort of statement in
7 time for the UNCED meeting in Brazil in June '92 -- is
8 it June? Yes.

9 So it will be interesting to see what
10 that movement produces in comparison with what the
11 moves towards a Forest Peoples' charter -- sorry, World
12 Forests Convention produce.

13 MADAM CHAIR: Excuse me. Dr. Poole, when
14 you refer to deforestation, are you referring to any
15 manner of logging the forest or are you referring to a
16 particular way of logging that makes it unlikely there
17 will be regeneration?

18 THE WITNESS: Deforestation - I suppose
19 it's just a loose term - means, I would say, the
20 results of clear-cutting or clearance for agriculture,
21 which may be the same thing, or burning for clearance.
22 So there are three principal agents of deforestation.

23 MADAM CHAIR: And the forest is replaced
24 with another...

25 THE WITNESS: Well, usually -- well, in

1 the tropical forests, there is very little done in the
2 way of planned reforestation so that what usually
3 happens is there is a road; and once there is a road,
4 logging companies get access and colonists get access,
5 and the colonists finance developing their 50 or 100
6 hectares which they need to do in order to get title,
7 depending on the country, by selling the timber on this
8 land. That gives them enough, that gives them sort of
9 start-up money, and then the land gets converted into
10 pasture, and in many cases after three or four years it
11 becomes too sour, the pasture. And that is loosely
12 referred to in South America as the process of
13 deforestation.

14 Now, it could be, the same effect could
15 be achieved simply by cutting it, clear-cutting, which
16 also happens.

17 MR. COLBORNE: Q. Dr. Poole, at the
18 beginning of paragraph 2, you say that beyond the
19 indigenous community, forest conservation has now
20 acquired the status of a global environmental issue.
21 My question to you is: How did this happen? How long
22 did it take? And what were the factors or forces that
23 caused this to occur?

24 A. I suppose it's something that's
25 really become -- it has moved beyond a threshold

1 dividing the sort of environmental community and the
2 public at large, I guess over the last three or four
3 years, that it has become -- rainforests have become
4 a -- rainforests and deforestation of rainforests is
5 perceived very widely as an issue. And I think it's
6 very hard to say exactly how it happened.

7 One of the things that I know is it
8 surprised a lot of environmentalists that suddenly the
9 thing that they had been concerned about for a long
10 time, much longer than three or four years, has
11 suddenly become public currency, and there is a lot of
12 people claiming responsibility for this. I am not sure
13 who deserves it. But the fact is that I have noticed
14 is this question of acid rain has focussed people's
15 attention on forests.

16 The question of global warming has
17 focussed people's attention on forests. And in that
18 context, the statements such as those by prominent
19 people who have nothing to do with the environmental
20 movement such as Margaret Thatcher have made a lot of
21 difference.

22 And the other I think what has dramatized
23 this is a lot of material has come out of the Amazon
24 showing -- well, satellite imagery showing the amount
25 of forests that are lost -- that are burnt every year.

1 You know, the area the size of Connecticut, et cetera,
2 et cetera, that kind of publicity has galvanized a lot
3 of public attention.

4 And environmental movements have been
5 capitalizing on this, as they tend to do so, because
6 they need issues in order to get public support, in
7 order to get funding, in order to do what they want to
8 do.

9 So I think it is a combination of various
10 issues which are forest specific such as the acid rain
11 issue and the burning of the forest, in what appears to
12 be a very unconsidered kind of way, coupled in the
13 context of a much larger increase in environmental
14 awareness due to things like ozone, getting skin
15 cancer, Chernobyl, Exxon Valdez. It is seen as one of
16 a complex of issues.

17 But I would say that in the sort of
18 global, on the global scene, there is probably nuclear
19 pollution -- sorry, water pollution, nuclear
20 proliferation, and forest issues are seen as the major,
21 amongst the major ones.

22 So that's the contexts which have given
23 rise to that, and this sort of happened independently
24 of what indigenous people have been doing about trying
25 to protect their forests, but now there has been a

1 convergence.

2 Q. Yes, that is the next question I
3 wanted to get to. Further along in the same paragraph
4 your are referring to, and I will just read one passage
5 here, "The self-evident success of indigenous peoples
6 as forest managers."

7 I would like to ask you first, exactly
8 what is the connection between that point, indigenous
9 peoples as forest managers, and the recently heightened
10 public interest in environmental issues? And,
11 secondly, what do you mean by the self-evident success
12 of indigenous peoples? Could you just expand on that.

13 A. Can I say that one first?

14 Q. Yes.

15 A. That's almost a self-evident point
16 that before -- almost invariably, throughout the
17 Americas anyway, before Indian groups became exposed to
18 outside influences, whether these were benign or
19 benevolent or missionary or whatever, they tended to
20 run a community economy, socio-economy, if you like,
21 which operated pretty well in isolation from sort of
22 industrial effects, though not necessarily in isolation
23 from other indigenous groups, by which they managed to
24 obtain a living from forests without destroying their
25 reproductive capability.

1 And what happens when they came into
2 contact with, say, industrial societies - it's a
3 generalization - whether this contact took the form of
4 missionaries or the rubber industry or logging, before
5 that kind of contact, it's self-evident that whatever
6 it was they did with their forests, and some groups did
7 a lot more with their forests than is generally
8 thought, they could be said to manage them in a
9 sustainable way because the forests were standing
10 there. It is the exposure to, exposure to other sort
11 of social and economic influences which changes this
12 pattern.

13 That was one part of the question, was it
14 not? The other one was the...

15 Q. What is the connection between that
16 point that you have just mentioned about indigenous
17 peoples as forest managers in the past or at least at
18 times prior to --

19 A. Yes, the connection is that the
20 forest issue is now a major international issue. There
21 are a lot of environmental organizations, most of them
22 I would say, if not many of them, are concentrated in
23 Washington, and they are looking for arguments,
24 strategies, to persuade governments or to persuade the
25 public or to get support for forest protection.

1 And in some cases, they have had to come
2 to terms with the fact that those forests are occupied
3 by people who are not going to go away or can't be
4 shunted away by declaring a national park and excluding
5 them.

6 On a more positive sense, other groups
7 have seen that the way that people use the forest
8 traditionally is obviously self-evidently sustainable,
9 so they say we should work together with these groups.

10 Now this is not to say that the objective
11 is to sort of encapsulate them and place them into sort
12 of museum contexts, so they sort of revert to a sort of
13 pre-contact form of economy, but to say here are groups
14 of people who have a declared intention and interest in
15 developing some sort of forest management for which
16 their traditional pre-contact model could be seen to be
17 an analogue. Now this may entail using -- this may
18 entail getting involved to some degree with external
19 markets and it might entail using modern technology,
20 even chain saws.

21 What was interesting about the groups who
22 attended this conference in Bamfield, the groups from
23 Latin America, is that almost all of them are poised at
24 this point of saying: What is it of our traditional
25 values and our traditional regime of multiple use that

1 we need to conserve and hold on to, and what is it of
2 the other possibilities open to us that we wish to
3 exploit -- and I mean exploit in the sense of exploit
4 markets, exploit various kinds of industrial technology
5 and scientific management techniques that are open to
6 them if they want to adopt them.

7 So in this sense there is a mutual
8 interest on the part of conservationists to form
9 alliances with indigenous groups, and there is an
10 interest on the part of indigenous groups to employ, if
11 you like, the instruments of conservationists in their
12 interests, and I could talk more about specific
13 examples if you like.

14 Q. If you know of specific examples that
15 are particularly illustrative, yes.

16 A. In the sense of the relationship
17 between the indigenous people and conservationists, the
18 Awa project in Ecuador is particularly interesting
19 because it started off about ten years ago as simply an
20 attempt by the Awa community in Northern Ecuador, near
21 the Colombia border, simply to get their land
22 demarcated legally and then to develop what they call
23 an ethnic forest reserve.

24 They developed, I mean, they created
25 almost a new category of conservation area because they

1 didn't want it to become a faunal reserve or a national
2 park or any of the other categories of conservation
3 area that exists in Ecuador. They wanted something
4 which was distinctly their own but had the same effect.

5 So they managed to get that. They got it
6 declared and it's entitled the Awa Ethnic Forest
7 Reserve. And they got support in this from The World
8 Wildlife Fund U.S. and from Cultural Survival from
9 Boston. They got support in terms of getting legal
10 help, of intervening with the government, of giving
11 them some support from the international scene.

12 And after about five years of effort,
13 they had an area demarcated legally and they then went
14 on to demarcate it on the ground. And what they did
15 there - and I'm actually repeating myself to some
16 degree - but they surrounded the whole of their reserve
17 with a clear-cut, 25 metres in width, 200 kilometres
18 long, which they planted with trees, orchards, and the
19 objective was to announce to the logging front, if you
20 like, to put it crudely, which is sort of advancing
21 from the Pacific, Esmerelda's Province, towards the
22 area where the Awa are located, to announce to the
23 loggers that this land is occupied because in many
24 cases in Latin America the logging companies use the
25 rationale "There is no one living here to dispose of

1 any potential competitive claims to the land." And so
2 the Awa are saying, "There is someone living here",
3 which I find is interesting because it's not a
4 technique for demarcating a conservation area that I
5 have come across anywhere else, surrounding it by a...
6 but it is very opportunistic and it works.

7 Now the Awa, once they reached this
8 point, got established, suddenly people appeared from
9 UNESCO and said, "We would like to make you a biosphere
10 reserve." There is a ready-made perfect example of an
11 indigenous initiative which works. And they said "No."

12 And interestingly enough, the Kuna in
13 Panama, who had been doing something similar, also said
14 "No, they didn't" because they were suspicious of the
15 word "reserve", not surprisingly, and they were
16 suspicious of advances from a conservation organization
17 because of their experience with national parks, which
18 is not always a happy one in Latin America if you are
19 an indigenous person.

20 But they have continued since then and
21 now that project has become bi-national. Both the
22 Colombian and the Ecuadorian government have realized
23 that this is quite a good way of looking after the
24 frontier, a much more benign way and less expensive
25 than parking a lot of military along the frontier, so

1 they have encouraged this.

2 There are Awa living in Ecuador and there
3 are Awa live in Colombia where a comparable project
4 called La Planada, which is an educational,
5 environmental community-based educational project has
6 been developing over the same period. And now the Awa
7 and the La Planada and the Awa in Colombia have all
8 combined together to develop a sort of cross-border
9 conservation unit.

-10 And they have finally decided, and one of
11 the Awa representatives was at Bamfield and he told me,
12 he brought me an update, and they have now decided that
13 they are ready to be called a biosphere reserve but on
14 their own terms, and they are in the process of
15 negotiating what will happen when they become an
16 international biosphere reserve. They have started to
17 see value in this because it signifies international
18 support which they can call upon if they feel that
19 their reserve, so to speak, in Ecuador, is becoming
20 under threat.

21 Q. Sir, in paragraph 3, you refer to the
22 formation of alliances, networks, organizations, et
23 cetera. What are the dynamics which occur, which mark
24 this formation? How do these things happen? What are
25 the forces behind them? Where does the money come

1 from, this type of thing?

2 A. My failure to -- I don't know the
3 whole story about the emergence of the Forest Peoples'
4 alliance in Brazil, but it is widely regarded as one of
5 the first really strong alliances, and that is between
6 Indian communities and rubber tappers.

7 And just by coincidence, I was in
8 Washington about two months ago and I attended a
9 meeting where Alton Crenick, who is the president of
10 the Forest Peoples' alliance and the leader of the
11 rubber tappers union, and one of their colleagues, were
12 there to present their case to a group of
13 environmentalists. This is in between lobbying
14 attempts at the World Bank and Congress in Washington.

15 The Forest Peoples' Alliance is
16 interesting because it grew out of a situation conflict
17 that had existed between, let's say the rubber tapping
18 community and the Indian communities in Brazil. And I
19 think Chico Mendes, the person who was murdered five or
20 six years ago was one of those individuals who crop up
21 every now and then and start crossing institutional
22 boundaries.

23 And he persuaded - he is a very
24 charismatic man - very much like Cesar Chavez in the
25 American Southwest, he managed to persuade his union

1 people and the Indians that it would make much more
2 sense for them to combine their resources and their
3 activities simply because they all have an interest in
4 the forest remaining standing rather than clear it or
5 felled or cut as it is being in Brazil.

6 So they formed an alliance. And the
7 rubber tappers function very much like a union. And
8 they don't have a lot of money. I think when they come
9 to Washington, for example, this particular trip to
10 Washington was supported by an organization called the
11 Environmental Defence Fund, which is quite a big United
12 States environmental group. They tend to get money for
13 specific missions or specific trips as opposed to
14 having a sort of a solid bank account somewhere.

15 And the rubber tappers get money from
16 being -- they are organized as a union. They were
17 originally a union of people with a common interest who
18 got together with the Indians to form this Forest
19 Peoples' Alliance.

20 The Indians in Brazil, I don't know
21 exactly where their funding comes from. I imagine it
22 is a mix of church groups in Brazil like CEDIS, again
23 international organizations like Cultural Survival, and
24 Conservation International who provide them with money
25 for specific projects, and contributions from their own

1 resources.

2 They are not wealthy organizations, but
3 the kinds of things that they do are not necessarily,
4 don't necessarily require a lot of money, especially
5 the things they do in Brazil.

6 For example, the typical action on the
7 part of the rubber tappers unions has been and still is
8 a blockade. It is very much like the kinds of
9 blockades that some Indian groups in British Columbia
10 have been doing to logging companies. Where it is
11 known that a large logging company is about to move
12 into such and such an area that is used already by
13 rubber tappers, who tend to have a very structured
14 management approach to the land that they use, very
15 much like trappers here, and when the logging companies
16 are about to move in, the rubber tappers unions and
17 their families have formed a physical blockade of one
18 sort or another, and a lot of them have been killed as
19 a result of this. But that is their typical action and
20 it is not something which costs a lot of money; it
21 simply costs a lot of time and occasionally people's
22 lives.

23 Q. You mentioned towards the end of
24 paragraph 3 that the networks, the ones that you have
25 just been telling us about, will soon be extended to

1 include temperate and boreal forest regions. How is
2 that process happening and is it inevitable that these
- 3 networks will be extended?

4 A. Well, I think it is inevitable to the
5 extent that the meeting that I went to in England that
6 I referred to earlier, they say we want to include
7 temperate and boreal forest peoples in this world-wide
8 movement, and it's also the intention of the people I
9 mentioned who are developing the Forest Peoples'
10 charter to make it a global network. So it seems that
11 it is happening.

12 What was the first part of your question,
13 sorry, the part about the inevitability?

14 Q. Just how is the network being
15 extended?

16 A. All right, I can give you another
17 example. A very active organization internationally is
18 Conservation International. It is based in Washington.
19 They have only been in existence for about four years.
20 They were responsible for organizing the very first
21 "debt-for-nature-swap" in Bolivia.

22 They are also running a very interesting
23 project in Ecuador, which is based on the utilization
24 of this nut whose name I have forgotten, I am afraid.
25 It is a walnut-sized nut that has a very, very hard

1 kernel, that when carved is not, is quite difficult to
2 distinguish from ivory. And this is something that got
3 a lot of impetus two years ago when at CITES, the last
4 conservation meeting on the convention on international
5 trade in endangered species decided to put elephants on
6 the red list. I think it is the red list. It was
7 category 1. Anyway, the effect was to prohibit the
8 international trade in ivory.

9 And one of the results of this was that
10 suddenly attention focussed on this nut and how
11 widespread it was, and Conservation International are
12 now supporting several indigenous groups in the -- I
13 think it is in the Pacific coastal area of Ecuador, who
14 are looking at ways of sustainably harvesting this nut,
15 marketing it, and making it, developing a source of
16 sustainable revenue from it.

17 Conservation International, about three
18 years ago, opened an office in Portland, Oregon, and
19 that office was directed specifically towards the
20 temperate rainforest protection. And so their area of
21 interest extends all the way from California up to the
22 Alaska panhandle and includes the Alaska panhandle.

23 One of the things that they have done,
24 for example, is taken on as a member of their board, a
25 person called Gerald Amos who is the Chief of the

1 Kittemat Band at Heissler. And Heissler is a small
2 Indian community in Northern B.C., which is surrounded
3 by what is believed to be the largest uncut temperate
4 rainforest watershed in the world.

5 And at the moment there are two companies
6 which are contemplating going to work in there and the
7 Heissler Band is trying to organize a campaign to
8 prevent that happening, at least in the way that it is
9 proposed to happen. And in this campaign, they are
10 being assisted by Conservation International. And that
11 is the way these linkages sort of develop.

12 And Conservation International are also
13 involved with an interband group in Vancouver Island
14 called Nu-Chan-Nulth that are involved in a lot of
15 local forest, community forest projects. So it is
16 through the medium of these international campaigns
17 that these networks get gradually extended.

18 Q. In paragraph 4 you refer to the
19 proposition that traditional forms of land use have an
20 inherent value for environmental conservation and that
21 that proposition has steadily been gaining currency
22 within the International Conservation movement. My
23 question to you is: Before that proposition had been
24 gaining currency, can you characterize the attitude or
25 the perspective of the International Conservation

1 movement?

2 A. Yes. I think with some exceptions
3 one could say that it grew out of the idea, the
4 preservationist idea, and it's supported by -- it was
5 supported in those early years, which goes back to the
6 1880s, that all economic use is bad, and this was a
7 time when all the major evidence of economic uses,
8 buffalos, passenger pigeons, wild fowl generally in
9 North America was seen as a very destructive thing.

10 So the early conservation movement grew
11 up I think on the preservationist principle. But at
12 the same time, even in the 1880s people like Marsh were
13 writing books -- not Marsh, sorry Pinchot, were writing
14 books that followed a different path, that of
15 sustainable use. A sort of limited or self-limiting
16 economic use that does not reduce biodiversity, as the
17 current phrase has it.

18 So there has been a generally kind of
19 preservationist, in its most extreme form quite
20 misanthropic element, to being a conservationist and I
21 think that is represented in terms of conservation
22 instruments as typically as the national park.

23 And in national parks, national parks'
24 organizations tend to have a quite ambivalent attitude
25 towards indigenous people, the typical case being where

1 the park's authority says you can stay in a park as
2 long as you conform to this way of life or this pattern
3 of activity. And that pattern of activity is usually a
4 compound of what the park -- let's say, the park
5 authorities would like indigenous people to look like,
6 which is often a kind of romantic conception of what
7 people are like, coupled with the belief that if people
8 use, have in their possession instruments like rifles
9 and snowmobiles and so forth, they will automatically
10 wipe out everything in sight.

11 And so there has always been within parks
12 a sort of tension between parks' people and indigenous
13 people, if you like, and it is still something that has
14 not been really resolved to my knowledge in any parks
15 anywhere.

16 But now the National Park movement is
17 sort of reaching a point where it is not possible to
18 have any more -- many more parks than there are
19 already, and I am not talking so much up in Canada here
20 but elsewhere in the world. So the parks, say the
21 Parks Movement, the conservation community sort of
22 looked and are now beginning to realize that you can
23 achieve a conservation effect by other means than
24 having national parks, and I think there are probably
25 two reasons for this.

1 One is the fact that in areas where there
2 is a National Park that remains as sort of a little
3 natural island surrounded by completely domesticated
4 landscape, they find that ecologically that park may
5 not be sustainable and it may be simply just too small.
6 There is a limit, a lower limit to the area that you
7 can sort of say, let's say, sequester and expect to
8 just remain natural, especially if it's surrounded by
9 sort of -- let's call them domesticated landscapes and
10 species and so forth.

11 And in fact there is now a major project
12 going on in the Amazon called, I think, the Minimal
13 Ecological Areas Project, or something like that, where
14 they have taken areas of certain sizes and clear-cut
15 around them and left them as little islands and they
16 are observing what happens to them and relating it to
17 their size.

18 Well, that is one tendency is the fact
19 that there needs to be around these highly protected
20 areas - and I personally have no grief with the
21 principle that one should, certain areas should be kept
22 as natural as possible - but to surround these by
23 what's called buffer zones where certain kinds of
24 activity are encouraged and the general guiding
25 principle to that would be that the biodiversity, to

1 the extent that it is measurable, that is in place,
2 should be the benchmark and whatever happens in that
3 area should not reduce the biodiversity.

4 So that you have a different sort of
5 criteria apply. Instead of saying "We make as much
6 money as we possibly can from this resource." To look
7 at it purely in economic terms, you say "Does the
8 activity that is contemplated reduce, maintain, or
9 increase, because it could do that, biodiversity", and
10 then that becomes the first criteria. And following
11 that, there are other criteria such as economic
12 criteria. So that we have got these two trends.

13 Now, what a lot of conservationists have
14 observed and are now bringing to the attention of other
15 conservationists is that in those kinds of areas there
16 are lots of people living there who are already doing
17 this kind of thing, either because it has been their
18 tradition or because they see it as a sensible thing to
19 do, the thing that makes sense.

20 So that there is this other trend within
21 the International Conservation movement that is taking
22 very seriously what people do into account as a way of
23 achieving a conservation effect, rather than the sort
24 of older method which regarded people with of course
25 sort of almost automatic hostility towards

1 conservation.

2 And I think in this context, this
3 biosphere reserve idea is a good one because it is a
4 UNESCO program which has been in place for some time
5 but hasn't really gained the kind of international
6 brand recognition if you like that National Parks has.
7 But in principle it makes a lot of sense because the
8 biosphere reserve idea is that you encourage those
9 kinds of human activities in the reserves that are
10 models that are themselves inherently sustainable, at
11 least do not reduce biodiversity, and can be models for
12 people living in similar habitats elsewhere.

13 And so the biosphere reserve has a strong
14 kind of educational experimental component to it, and
15 this is one of the reasons why the Awa have decided to,
16 in Ecuador and Colombia, have decided to look into
17 becoming a biosphere reserve, to getting that UNESCO
18 approval.

19 MADAM CHAIR: Excuse me, Mr. Colborne, I
20 don't know what time is convenient for you to take the
21 morning break, but perhaps--

22 MR. COLBORNE: Now is fine.

23 MADAM CHAIR: --we could shortly.

24 And also we realize we haven't sworn in
25 Dr. Poole's evidence.

1 THE WITNESS: Can you do this
2 retrospectively?

3 MADAM CHAIR: I don't think the parties
4 will object.

5 MR. COLBORNE: Indeed we haven't.

6 MADAM CHAIR: Is this a good time for the
7 break?

8 MR. COLBORNE: Yes, it is.

9 MADAM CHAIR: Why don't we do that.

10 And before we do, we will swear in Dr.
11 Poole's evidence to cover everything he does today.

12 PETER POOLE; Sworn.

13 MADAM CHAIR: We will take a 20-minute
14 break now. Thank you.

15 ---Recess at 10:18 a.m.

16 ---On resuming at 10:40 a.m.

17 MADAM CHAIR: Mr. Colborne.

18 MR. COLBORNE: Q. Dr. Poole, you have
19 referred to the World Conservation Strategy at
20 paragraph 5 on the top of page 2 of the witness
21 statement and the fact that it has been endorsed by
22 government environmental agencies worldwide. My
23 question to you is: Has Canada endorsed the World
24 Conservation Strategy?

25 A. Yes, it has.

1 Q. Does the World Conservation Strategy
2 contain references which are relevant to the subject
3 matter of your witness statement?

4 A. Yes, it does. I have got the old
5 World Conservation Strategy, came out in the early
6 '80s, and there is a new version which is for the '90s,
7 and I have the first -- it is not absolutely finally
8 approved yet, but it is drafted, actually by someone
9 who lives in Victoria, and it is called "Caring for the
10 World: A Strategy for Sustainability".

11 It covers a lot of the principles that I
12 have been sort of touching on. Specifically it has a
13 long section on forestry and it has a section on
14 building a global alliance and it has a section on
15 community in parliament, which is interesting, because
16 it talks about, it introduces a concept called "Primary
17 Environmental Care".

18 And what they are suggesting here is one
19 of the things that I think is a very strong argument
20 that ultimately you can't achieve conservation unless
21 you get people agreeing with it and you can't coerce
22 conservation out of people. And whether this is
23 expressed in sort of community action or through the
24 ballot box, it doesn't matter. You eventually have to
25 work with people and you can't just sort of shut them

1 out of it or be Draconian about getting people to act
2 accordingly.

3 So what they are doing is they stress
4 responsibility. And in terms of -- they have a section
5 here called "Empowering Communities for Primary
6 Environmental Care", and they talk about
7 sustainability. Shall I read just a section of it?

8 Q. Yes, please.

9 A. Sustainability is a matter of
10 responsible informed behaviour by
11 individuals and groups. Responsible
12 behaviour is likely only when people have
13 full control over their lives and access
14 to the resources required. Information
15 is useful only when it can be applied to
16 a particular context. The context of
17 individuals is invariably personal,
18 communal and local. Thus, community
19 action is the ultimate basis for national
20 and global sustainability.

21 And then there are just three points they
22 mention earlier on about empowering communities:

23 This entails communities and
24 individuals gaining greater control over
25 their lives, including greater influence

1 over the decisions that affect them. And
2 empowerment involves, one, secure access
3 to resources; two, an equitable share in
4 managing resources; and three, the right
5 to participate in projects in definition
6 of needs, project design, implementation
7 and evaluation; four, a clear sense of
8 responsibility; and five, education and
9 training.

10 And I could go on at great length because
11 this tends to be a ponderous document, but one of the
12 reasons it is ponderous is because they are trying to
13 sort of say everything and they are not going to get a
14 chance to say anything more until ten years from now.

15 Q. Presumably, sir, additional copies of
16 that document are available?

17 A. Yes. They could be obtainable from
18 this person, the person who drafted it, Robert Prescott
19 Allan in Victoria.

20 Q. I wonder if we can have that one to
21 mark it as an exhibit since you have read from it.

22 A. I have read from it. Yes, you can
23 have it, even though it is the only one I've got. I
24 probably won't get around to reading it myself, all of
25 it.

1 Q. What pages were you reading from?

2 A. I was reading from page 31.

3 Q. I am going to ask that it be marked
4 as an exhibit, and I will arrange with Mr. Pascoe, as I
5 I will with respect to another document that was filed
6 earlier in my evidence, to have additional copies made.

7 MADAM CHAIR: Thank you, Mr. Colborne.
8 Could you read the title and the date for us. And this
9 will become Exhibit 1880.

10 ---EXHIBIT NO. 1880: Document entitled "Caring for the
11 World: A strategy for
12 Sustainability", prepared by the
13 World Conservation Union, the
United Nations Environment
Program, and the World-Wide Fund
for Nature.

14 MR. COLBORNE: The title is called
15 "Caring for the World: A strategy for Sustainability".
16 The date is June 1990. It is marked "Second Draft".

17 MR. FREIDIN: It is a document prepared
18 by the World Conservation.

19 MR. COLBORNE: Prepared by the World
20 Conservation Union, the United Nations Environment
21 Program, and the World-Wide Fund for Nature.

22 MR. FREIDIN: Thank you, Mr. Colborne.

23 MR. COLBORNE: Q. Dr. Poole, when you
24 say Canada endorses a document like that, how does that
25 occur, what is the process?

1 A. Well, the people who developed the
2 original work, Conservation Strategy, principally the
3 IUCN, the International Union for the Conservation of
4 Nature, they as the authors decided what they would do
5 is not implement it themselves because they are not in
6 the position to do so; they would simply produce it and
7 then they embarked on a program of having it endorsed.
8 They went around the world presenting it to various
9 government agencies and saying, "Will you endorse
10 this?" And they said "Yes." Canada is one of those
11 who said yes. It's the majority of them. I think well
12 over a hundred nations have endorsed it. Of course
13 that's the easier thing to do.

14 Q. Later in paragraph 5 you talk
15 about --

16 MR. MARTEL: Can I ask a question, Mr.
17 Colborne.

18 MR. COLBORNE: Certainly.

19 MR. MARTEL: At that stage, all kinds of
20 people can adopt all kinds of things and pay attention
21 to nothing in it. What has been the response?

22 THE WITNESS: Yes, that's what I was
23 implying when I said it was "the easier thing to do".

24 The IUCN is an organization of scientists
25 that doesn't have as much political clout or political

1 inclination as they might have. And so I think that
2 they whereas they like to develop strategies like this,
3 they don't have the resources or the inclination to
4 follow them through because they tend to be ecological
5 scientists.

6 So, it is useful as a document which is
7 there, which does express a lot of gathered and
8 collected opinion, and it is applicable in a world
9 sense and it does make sense. But I think given that,
10 one has to go a lot further in implementing these
11 things than the people, the authors of it are capable
12 of doing. It is not really interest, it is capability.
13 It is just they said, "This is all can do. As IUCN, we
14 can get them to endorse it, and then we just have to
15 hope they will do something about it, implement it
16 themselves."

17 MR. COLBORNE: Q. Just in that same
18 regard, Dr. Poole, you provided me with something by
19 the Canadian delegation to a certain conference in
20 1990. Maybe this would help elucidate what it means
21 when national governments participate in taking
22 positions - or I am not sure if that's the correct
23 term - with respect to issues of this type. Could you
24 just tell us what this is.

25 A. Yes, it's the Canadian Delegation,

1 UNCED Nairobi PrepCom, August 16, 1990. Would you like
2 me to interpret that?

3 Q. Yes. I see you have another copy.
4 Maybe I will just hold on to this one so I can follow
5 you.

6 What is this? Why does it say "Canadian
7 Delegation"? What kind of official capacity, if
8 anything, does a document like this have?

9 A. Now I obtained this from Dr. Jagamani
10 (phoen.) who is an ADM in Forestry Canada. I am not
11 sure of his exact title. I do know that at the time he
12 spent it to me, about a year ago, it was -- no, it
13 wasn't a year ago, it says August 1990. I obtained
14 this last September and he within Forestry Canada seems
15 to be the person responsible for formulating and
16 implementing the Canadian input into this World Forest
17 Convention that I mentioned earlier, so it's in that
18 connection that I contacted him, and he gave me this an
19 an example of the delegates' position.

20 Now the UNCED Nairobi PrepCom simply
21 means that this was a meeting, a preliminary meeting
22 for the Brazil 1992 United Nations Conference on
23 Environment and Development. It is going to be in Rio
24 de Janeiro in June '92. And this was one of a series
25 of preliminary meetings.

1 Now because this World Forest Convention
2 is supposed to be at some stage where it can be
3 endorsed by the people attending this meeting, this
4 meeting in Nairobi -- sorry, Brazil, and there's going
5 to be about 20,000 people there, it is going to be very
6 large, it is a United Nations conference.

7 So they want to have a number of global
8 conventions ready for putting up there. One is going
9 to be a climate convention; another one is a convention
10 on biodiversity; the third one is this World Forest
11 Convention; and I think a fourth one is something about
12 an Earth Trust statement or something that probably
13 belongs to the same category as this Caring for the
14 World document that everyone will endorse and go home
15 and forget.

16 But anyway they are all going to be there
17 next year in Rio and that's going to be the next, it's
18 going to be the next big jamboree that people will be
19 attending.

20 But I think that the statement here by
21 the Canadian delegation is quite interesting. I could
22 read from it?

23 Q. Yes, please.

24 A. Okay. There are two statements that
25 bear upon what we have been talking about. One is the

1 definition that the Canadian Government delegation
2 presented as a definition of sustainable development.
3 And they say:

4 "Sustainable development of forest
5 land and its multiple environmental
6 values involves maintaining, without
7 unacceptable impairment, the reproductive
8 and renewed capacities as well as species
9 and ecological diversity of forest
10 ecosystems."

11 I guess the tricky word in there is
12 "unacceptable" impairment.

13 The next one, quotable part, is the
14 issues. Amongst the specific issues that the Canadian
15 delegation would like to see considered in the
16 formulation of this document are:

17 "A) The sustainable management of
18 forests for long-term production of wood,
19 fibre and other forest products;

20 "B) The importance of forests for
21 sustaining basic human needs - as a
22 source of food, value (sic) and shelter;

23 "C) The importance of forests for
24 sustaining the traditional livelihood and
25 cultures of many aboriginal and

1 indigenous peoples.

2 "D) The educational, scientific,
3 cultural and spiritual importance of
4 forests for many peoples..."

5 Shall I continue? That's only about a
6 third of them.

7 Q. No, that's fine.

8 Since you have read from it and I think
9 we have here only the copy you read from and the one I
10 have, is that correct, or did you happen to bring with
11 you more copies?

12 A. I think I have got one more. Yes, I
13 have got one more copy.

14 Q. Very well. I will ask that this be
15 marked as an exhibit.

16 MADAM CHAIR: This will be Exhibit 1881.
17 And can you identify it, Mr. Colborne?

18 MR. COLBORNE: It is a document entitled
19 "Canadian Delegation, August 16, 1990, Working Group
20 One, Canadian Statement on Deforestation and a Proposal
21 for a Global Forest Convention".

22 Once again I will arrange to have more
23 copies prepared.

24 ---EXHIBIT NO. 1881: Document entitled "Working Group
25 One. Canadian Statement on
Deforestation and a Proposal for

1 a Global Forest Convention".

2 MR. COLBORNE: Q. Dr. Poole, in your
3 evidence in paragraph 5, you talk about the
4 regenerative capacities of traditional land uses and
5 the reservoirs of indigenous ecological knowledge. My
6 question with respect to that knowledge is: How is it
7 elicited? How is it obtained from those who hold it
8 and how does it enter the knowledge of let us say
9 western scientists?

10 A. I would say that the major medium has
11 been the work of ethnobiologists who I guess is a
12 branch of anthropology who specialize in looking at
13 indigenous knowledge systems of environment. And it
14 breaks down to ethnozoology and ethnobotany, depending
15 on whether it's animals or plants.

16 And anthropologists or ethnobiologists
17 have often collected this incidentally, more I suppose
18 in pursuit of academic studies. Recently, it's been
19 more and more valued or I guess or alluded to as
20 knowledge that has a very practical aim which it always
21 has for indigenous people. What people are saying is
22 that that has a coincidence, coincidental value for
23 conservation.

24 For example, last year I attended the
25 congress of ethnobiologists, the International Society

1 of Ethnobiologists in Kunming in China. And at that
2 conference, they invited for the first time a number of
3 indigenous delegates, and in fact one of those, a
4 person from Australia, is now a member of the board of
5 the ISE.

6 And at the same time meeting, the
7 congress adopted a number of interesting resolutions
8 which concentrated on collecting, storing, using and
9 protecting indigenous knowledge in a very practical
10 kind of way.

11 And I think there are in practice two
12 general areas of application that have attracted
13 people's interest. One is the idea that there is
14 somehow in there a model, an alternative model for
15 conservation, and that somehow this indigenous
16 knowledge can be collected and re-sorted and combined
17 with if you like western scientific conservation to
18 come up with a model which is the model for the next
19 century or whatever.

20 I find that proposition a little
21 ambiguous because there is a tendency to extract the
22 knowledge and forget the people. And one of the things
23 about indigenous knowledge is it tends to be -- it is
24 oral and once you extract it and codify it, it not only
25 becomes anaemic but it also becomes dead.

1 And I think it is more interesting to
2 observe and participate and support what the authors of
3 this knowledge are doing with it now in the modern
4 context; and in that respect, the project that I just
5 concluded with the people in Sanikiluaq was interesting
6 because what we arrived at in the end was a blend of,
7 if you like, an opportunistic blend of their
8 traditional knowledge and our kind of technical
9 expertise towards an end which suited their objectives
10 and left them in control, and certainly would only
11 offend those western, I guess, wildlife biologists who
12 feel their tenure threatened by the fact that other
13 people are taking control of resources instead of them.
14 In that sense, it is just job competition. But in the
15 sense of effective wildlife management, there is
16 nothing threatening about it.

17 So I find that sort of application of
18 indigenous knowledge to be really interesting. And the
19 other area in which indigenous knowledge has become an
20 issue is the question of the intellectual property
21 rights of indigenous people. And this became a large
22 issue at Kunming and it is going to become an even
23 larger issue at the next meeting of this society which
24 is going to be in Mexico next November.

25 What happens in the typical case is a

1 pharmaceutical or a food company gets hold of, by one
2 means or another, an item of indigenous knowledge which
3 usually means the properties of a certain plant. And
4 they simply exploit this. They either take the plant,
5 examine it, and if they can synthesize it, and then
6 reproduce it, in which case they have developed a drug
7 or whatever without incurring any of the sort of R&D
8 costs that are normally associated with the drug
9 development.

10 Or in the second case, they promote the
11 gathering of the plant. And this can have serious
12 consequences. One of them I have been well informed of
13 in Brazil is where a German company called Merkel
14 encouraged the local gathering of a plant from which
15 they extracted an essence which is used for treating
16 glaucoma.

17 And a colleague of mine has visited that
18 community over a long period and has reported to me
19 that since this plant was first identified and the
20 agents of the company sort of went in and made friends
21 with certain people in the local population, and that
22 led to a familiar sequence of events, involving giving
23 up of gardenings, alcoholism, the elimination of the
24 plant within the local areas, and the division of the
25 community into those who are really regretting what is

1 happening and those who are benefitting by it. It is a
2 familiar kind of story throughout the Americas.

3 And for that reason, this organization,
4 the International Society for Ethnobiology, which
5 originally was a sort of very academic grouping, is
6 becoming quite activist, and they have formed a
7 coalition with the World Council for Indigenous
8 Peoples, which is I think a U.N., almost like a
9 U.N.-sponsored -- a U.N.-recognized organization, which
10 is based in Ottawa. And the ISC and the World Council
11 of Indigenous Peoples have formed a coalition to deal
12 with issues of indigenous knowledge such as these
13 jointly without, you know, counselling each other on
14 how to go about it.

15 Q. You mentioned job competition in
16 reference to what you were doing on the Belcher
17 Islands.

18 A. Hm-hmm.

19 Q. And I think what you said was that in
20 some cases opposition to indigenous people taking over
21 wildlife management is based simply on the fact that
22 the old managers will lose their jobs?

23 A. Yes.

24 Q. On the Belcher Islands, was there
25 previously in place a wildlife management regime of

1 some kind that was displaced by the indigenous people
2 when they took over management?

3 A. Yes and no. It's a tricky sort of
4 and rather silly little taxonomic problem about the
5 difference between caribou and reindeer. Caribou used
6 to be on those islands long before there was any
7 wildlife management in progress. They apparently
8 disappeared in the 1880s and no one knows why. The
9 territorial government introduced reindeer in '68,
10 which are simply domesticated caribou, and they do
11 interbreed and so they are the same species.

12 The reindeer came from the Canadian
13 reindeer herd, the only Canadian reindeer herd in the
14 delta, the Mackenzie Delta. They flew over 63 animals,
15 left them there in '78, and said "You look after them.
16 They are your responsibility. Bye. No more
17 complaint." And they took over and left them. And the
18 community just watched and watched and did nothing and
19 didn't help them for several, several years.

20 Now when this project that I got involved
21 in developed, they tried to get money from the
22 government of the Northwest Territories to support
23 this. In fact, most of the funds came from Northern
24 Affairs.

25 The reason they didn't was because

1 reindeer is a domestic animal and therefore beyond the
2 jurisdiction of the Northwest Territories' wildlife
3 service. Never mind the reindeer had become caribou
4 again. They had been feral for ten years. They just
5 behaved like caribou and they have a slightly different
6 breeding cycle. But in terms of hunting and
7 management, they have effectively reverted to caribou,
8 but they were genetically reindeer; they actually came
9 from Norway in the 1890s and Alaska in the 1930s, the
10 same herd. And so there was and there wasn't a regime
11 in place.

12 But there was a certain amount of -- the
13 wildlife service of the territories gave advice to the
14 local people on how many caribou or reindeer, whatever
15 you want to call them, they felt that they could
16 sustainably take a year.

17 Now our surveys actually discovered that
18 was far too high because what had happened was that the
19 government of the Northwest Territories conducted one
20 survey in 1982, had then gone away and put it on a
21 computer model, and the years between '82 and I guess
22 '89, before my involvement commenced, the computer
23 model sort of had its own life whereas the reindeer had
24 their own life and they gradually sort of diverged, so
25 that when we did the survey we found there were far

1 fewer reindeer than they expected there to be.

2 And one of the reasons was because they
3 were recommending quite high sustainable hunt rates,
4 but the herd itself is so healthy they managed to
5 survive an increase in spite of this.

6 So there was an interesting difference of
7 opinion that emerged during the course of this study
8 about how many reindeer there were, so we repeated the
9 survey twice to make sure that there were what we --
10 the number we had counted was accurate.

11 Q. On this question of job competition
12 in relation to forest management, in these areas that
13 you have referred to, for example, the Colombian Amazon
14 which was returned to Indian ownership, was there job
15 competition as between the aboriginal people who
16 assumed management or ownership of those forests and
17 any, let us say, outgoing management regime?

18 A. No, I think not. One reason is the
19 difference -- there is an awful lot of people want to
20 become wildlife biologists, and the Northwest
21 Territories is one of the few areas in the world where
22 you can do really sort of traditional class wildlife
23 biology. There is quite a different situation in
24 Colombia where there is a great shortage of trained
25 manpower.

1 So, as far as I can tell, when the
2 Colombian resqueros which is the Indian lands were
3 declared, the Inturana (phoen.), which is the
4 government environment agency in charge of the area
5 - from the environmental point of view, they have been
6 sort of collaborating with Indian organizations and
7 having meetings with Indian organizations because what
8 they would like to do is simply embark on co-management
9 plans right from the beginning. It is not there so
10 much.

11 Q. I would like to go on to a matter
12 referred to in paragraph 6 of the witness statement,
13 and that is the disappearance of environmental
14 knowledge when not used or usable. Has this occurred
15 or is this occurring in Canada?

16 A. Well, I don't have any -- it is very
17 difficult to sort of quantify something that is oral
18 disappearing, especially since it is so inaccessible to
19 people like me. I can only take there is evidence of
20 it being in issue the fact that there is an increased
21 interest in the indigenous communities and
22 organizations that I have encountered in retaining this
23 or capturing it or collecting it or storing it before
24 it disappears.

25 I can think of three examples. The Inuit

1 Circumpolar Conference, which is mainly kind of a
2 political social organization meets every two years
3 somewhere in the Arctic, has an elders' conference that
4 runs in parallel to sort of the political leaders
5 conference and the elders' conference, they just sit
6 and talk about medicine or about animals and everything
7 is... That's the way of collecting that knowledge.

8 Nu-Chan-Nulth, the Indian organization on
9 Vancouver Island, has field workers who are simply
10 doing that: interviewing elders and capturing their
11 knowledge.

12 The Dene Cultural Institute, the
13 organization that I am working with on this CEDA
14 project in the Americas, the data base project, have
15 had for three years an indigenous knowledge project
16 going in the areas of environmental knowledge,
17 education and justice. And they have field workers who
18 have been collecting knowledge in these three areas.
19 And they are even in the process of drafting a book or
20 a manual for field workers to collect environmental or
21 indigenous knowledge.

22 So I think by virtue of projects like
23 this, one can assume that there is a sensitivity to the
24 fact that it is disappearing, but it's not irredeemably
25 so, and I think the Dene Institute is a really

1 interesting program because they are looking for first
2 collecting it and then applying it in the land claim or
3 the land management regime that is going to follow the
4 settlement of the Dene/Metis claim which is I guess
5 imminent.

6 Q. In paragraph 7, just following from
7 what you just said a moment ago, towards the end of
8 that paragraph, there is a reference to specific
9 applications of this knowledge as opposed to the
10 knowledge simply entering the knowledge of
11 conservationists. And it seems to me that this says
12 that sometimes it doesn't flow or in the past sometimes
13 it did not flow from the knowledge of conservationists
14 into actual practical applications. Am I reading that
15 correctly?

16 A. Yes, I was referring there to the
17 IUCN group that I mentioned in line 3 of that
18 paragraph, which was formed by a group of very
19 well-meaning people, some of whom I knew, who are all
20 academics -- almost all of them academics, certainly
21 none of them indigenous, and they had that tendency
22 that I remarked on earlier to believe that you can
23 somehow extract this knowledge and then sort of absorb
24 it into your system and apply it and it will work
25 better.

1 And I am sure you could do that to a
2 certain degree, but I think the more effective thing to
3 do, if one is going to follow what setting up those
4 institutions implies, which is that the people in
5 conservation should be involved, then one has to deal
6 directly with the indigenous community in pursuit of
7 applying indigenous knowledge and accept the kinds of
8 things they do, even if somehow what they do don't meet
9 sort of rigorous academic criteria.

-10 And there has been this tendency to
11 extoll the virtues of indigenous knowledge in this area
12 as something you can extract, until these more recent
13 manifestations of that which are the ones I have just
14 referred to: what the Dene are doing and what the
15 Nu-Chan-Nulth are doing, and the Innuviala is also also
16 doing it with their management schemes in the Delta.
17 They are counselling themselves and acting themselves,
18 applying it.

19 Q. I want to ask you now a few questions
20 in relation to the next section of your paper, that is,
21 the community-based alternatives to industrial logging.
22 And I am especially interested in whether or not these
23 alternatives in the long run do represent a threat to
24 industrial logging as we know it, so I will just come
25 right out and ask that question.

1 A. Well, they could. I think it depends
2 upon the scale. I think that if, for example, you are
3 talking about a very, very large area where both
4 practices were going on together and within that area
5 there are a few, let's say, indigenous communities who
6 were pursuing or other communities who were pursuing an
7 alternative way of using the forest, the kind of -- one
8 of the things about community-based alternatives that I
9 have encountered is that they tend to be self-limiting.
10 And to that extent, if you have an enormous area of
11 forest and a small group of people who say "This is our
12 area", then they don't represent a threat. But if you
13 are talking about -- in terms of access to the
14 resources.

15 But if you are talking about these
16 alternatives reaching towards a different kind of
17 constellation of attitudes and activities with respect
18 to forestries, which could at some point, let's say,
19 receive the endorsements of those government agencies
20 that are responsible for funding forest management, to
21 the extent that they would say "This is the kind of
22 practice that we will condone and provide incentives
23 for" and that, let's say, in an extreme case
24 "clear-cutting is a kind of practice we will penalize,
25 we won't stop it, but we will sort of penalize it by

1 applying disincentives", to that extent I think that
2 alternative practice could represent a threat inasmuch
3 that they might tend to become the practices that are
4 adopted.

5 Q. Am I reading this correctly, though,
6 that so far there are not examples of these
7 alternatives actually amounting to a threat because
8 they tend to be small and recent?

9 A. One or two of the people I have
10 talked to about this, who know more about the Canadian
11 situation than I do, have said to me that you have to
12 be very careful of the good news stories that emerge
13 into public knowledge and get circulated around
14 because some of them are -- they are very cautious
15 about generalizing on the basis of these individual
16 success stories because they say they they are the
17 result of this one person who, for example, near
18 Victoria there is one person who has managed a
19 130-acre - I think it's acre or maybe hectare - lot
20 since the 1930s, and he has been rigorously studied and
21 his lot is still standing and it looks like a wild
22 forest as opposed to a plantation-type of forest that
23 one would have expected after 30 years of intensive
24 management. And he has kept the figures of his income
25 since the '30s on this and it is tempting to take that

1 and project it to all the forests in B.C. and say this
2 could be done elsewhere.

3 But the people I have discussed it with
4 who are observing these examples say you have to be
5 very careful about doing that because we are not really
6 sure whether the markets he has got are markets that
7 are almost by definition small as, for example,
8 building boats might be or building or doing fine
9 furniture work. So we have to be very careful about
10 taking the stories -- the examples that are there now
11 and projecting them automatically and assuming that we
12 could displace MacMillan Bloedel by multiplying this
13 one by 100 or 500 times.

14 So there is a lot of caution about it. I
15 get the sense when I talk to people about the Canadian
16 situation is that there is an awful lot of interest and
17 commitment and talent sort of looking at this question
18 and exploring different kinds of ways of doing it. For
19 example, there is -- I haven't got the figures exactly,
20 but I think the B.C. Horse Loggers Association has
21 grown from, like, 27 people to over a thousand people
22 who are practising horse logging because they say this
23 is one way of selectively logging forests which is less
24 damaging at least.

25 And there are, as I said, on Vancouver

1 Island a lot of interest amongst Indian communities in
2 looking at ways of being very selective about taking
3 timber.

4 And I think that the point I was making
5 here was that I think one should be cautious about sort
6 of extrapolating on the basis of these small successes
7 simply because the way that the industrial logging
8 industry is structured, certainly in British Columbia,
9 it would just be structurally impossible I would say
10 for them to sort of say, "All right, we will convert to
11 horse logging or we will convert to, you know, this
12 holistic hundred-acre lot." They are just not equipped
13 to do it. And so in order for the logging -- in that
14 sense, I guess you could say they represent a
15 threatening alternative or option.

16 Q. You described some features of this
17 type of alternative including high information and
18 labour content, locally added value, and diversity of
19 compatible uses. Now that seems clear enough. But I
20 wonder if you could just give us a little more concrete
21 examples of how, for example, high information and
22 labour content enters the picture in these alternatives
23 that are emerging.

24 A. I can give you two examples, and they
25 are quite similar although they come from different

1 regions. One is the sal. Sal is the name of a tree in
2 India, and there are forests in India where it is
3 dominant to the extent that there are people who
4 identify with those sal forests, s-a-l, is how it's
5 spelled, and their whole communities say "We are sal
6 forest communities", but sal is just one of the trees
7 they use within that complex for a variety of uses.

8 Another one is the notion that I alluded
9 to earlier that has come out of the Forest Peoples'
10 Alliance, that of having extracted reserves.

11 And in each of these there is a high
12 information content in the sense that the economic
13 target is not just one, two or three species, but a
14 whole spectrum of different species, not just of wood
15 but of products of the trees, such as the fruit, nuts,
16 and so forth, and also the effect that those trees and
17 plants have on animal populations.

18 For example, certainly in the Amazon
19 there is a lot of fish that eat fruit, and people are
20 very careful about the amount of fruit they take
21 because if they take too many fruit, there won't be any
22 fruit for the fish. The fish literally take the fruit
23 off the trees when they are flooded.

24 So there is a high information content
25 and there is a high labour content in the sense that

1 you would have to spend more time in physically
2 extracting the resources that you are interested in as
3 opposed to a mechanized approach where you sort of take
4 it all and sieve out what you want mechanically.

5 Added value. To give you an example of
6 that, when I was in Ecuador doing this field work for
7 the Bank, I was visiting an area which has just been
8 exposed to road building and therefore colonization.
9 It was interesting to look at because this road was
10 about 50 kilometres long, had taken five years to
11 build, more or less directly into a rainforest that
12 hadn't been otherwise disturbed very much.

13 And at one end of the road, the bit they
14 had completed five years ago, colonization was
15 extremely advanced; at the other end of the road, it
16 was just sort of intermediate, it was just beginning.

17 Now in the middle there was an
18 intermediate section where I spent the afternoon
19 looking at what logging did to the forest, the logging
20 as it was practiced there anyway. And on one side of
21 the road there was an enormous parking lot full of
22 tractor trailers with logs that were of pretty dramatic
23 size, like 60 to 80 feet long and 3 to 4 feet on the
24 stump and straight.

25 And on the other side of the road was a

1 small co-operative that had been started, assisted by
2 this organization that I was travelling with, where you
3 had the same wood at one end and a minimum amount of
4 milling machinery and three or four people who were
5 sort of converting the wood at one end over a period of
6 six months or seven months to school desks at the other
7 end, and thus they were doing their local added value.

8 And that sort of activity characterizes a
9 lot of the small-scale projects that people are
10 involved in from the Maya projects in India to the
11 Yanesha project in Peru to this one in Ecuador where
12 they, this organization, Cultural Survival, that has
13 been responsible for supporting a lot of these
14 activities have gone in and not said, "You should stop
15 cutting wood because you are destroying the forest" and
16 talking to these indigenous communities who are
17 virtually selling trees, and in fact they are selling
18 access to trees, but virtually selling trees.

19 The one I saw by the way, the one on
20 logging trees, they were getting \$3 a tree for it, and
21 it would not be back for two hundred years,
22 approximately \$3 for a tree, this 60- to 70-foot tree.
23 And that is what the Indians were getting there.
24 Organizations were questioning and saying "You don't
25 have to sell the trees as a log. You can add value."

1 And they have taken that approach, and as
2 a result of that - they have been doing this for about
3 six or seven years - and as a result of that, the rate
4 at which these Indian communities are responsible for
5 disposing of the trees in that area because in that
6 area they are owned. Surface right has declined
7 radically because they are getting similar income
8 simply from using a smaller number of trees, but
9 meanwhile the sort of industrial scale logging is king
10 in the same area.

11 Q. So at the end of this section, and I
12 am looking at the paragraph which ends at the top of
13 page 3, you say that "It is an essential precondition
14 for indigenous group to embark upon this path of
15 development; that there be an agreement over access to
16 resources." Why do you say it is essential?

17 A. Partly because I have always -- of
18 the examples I have observed -- well, there seems to me
19 to be a -- and I haven't had a lot of experience in
20 negotiating land claims, that is not what I have done -
21 but there seems to be a threshold before and after a
22 land claim settlement. And before a settlement is
23 arrived at, the indigenous positions and I guess
24 inevitably necessarily are hard and fast, which is no
25 development.

1 And so the people who are holding this
2 positions are doing that because they are in a
3 negotiating mode and they cannot afford to temper or
4 compromise their position by announcing that they will
5 be ready to contemplate, come to some sort of terms.

6 Now after an agreement is in place, then
7 what I have observed very often are co-management
8 schemes, a certain kind of readiness to contemplate a
9 limited or sustainable resource exploitation, and that
10 seems to be a function of the land claim settlement
11 itself.

12 Once it is confirmed that we have this
13 land or we have access, prior access to this species of
14 whatever, then people are in a position to come to
15 terms. And it's that coming to terms which is the area
16 that I find myself working in because you have to on
17 almost a daily basis make a decision about where, how
18 far one can go.

19 And I don't think that this is -- I think
20 this is almost a permanent condition, I think. For
21 example, if you look at in Alaska, the Alaska
22 International Wildlife Range, which is a continuation
23 of the area in the North Yukon which is now a national
24 park and is going to be a wildlife area that is used by
25 Porcupine caribou herd, on the Alaska side of the

1 border, the native corporation that has -- the regional
2 corporation I think is called Goyan, I'm not sure, has
3 assumed certain sort of ownership responsibilities for
4 the area, is now engaged in coming to some sort of
5 agreements with oil exploration companies who are
6 looking for something now that Prudeau Bay is running
7 out, something in the area.

8 And they are coming under considerable
9 attack by Indian groups, Couchin Indian groups living
10 in the area who are let's say more traditional and they
11 don't want that sort of compromise to be made. And I
12 don't think this is going to go away. It simply shows
13 that in any community there will be people who are one
14 way inclined and others who are not.

15 But the readiness to contemplate the
16 kinds of indigenous land or resource management regimes
17 that I have been working with and observing seems to
18 follow upon the settlement of a land claim because you
19 necessarily to act is almost to compromise. You can't
20 act without making some sort of compromises. And
21 before a land claim settlement, then positions are
22 necessarily polarized and hardened and you can't
23 announce a readiness to getting engaged in some limited
24 way at your discretion in the development activities.

25 I think if one looks at the Innuvialas

1 (phoen.)in the Mackenzie Delta, one sees that. Before
2 they got their agreement in principle, like two years
3 ago, the position on development was no development.
4 Since the claim was settled, there has been a very sort
5 of cautious and small involvement in developments in
6 the Beaufort Sea, and it seems to me that the land
7 claim was the precondition for that kind of possibility
8 to emerge as long as -- because it gives them the
9 security, it gives them ultimate control. It's like
10 having tenure at university. Once you get it, you feel
11 that "I can do what I want."

12 Q. Is it like the security of tenure
13 which the forest industry often says is required in
14 order for them to properly plan and proceed with the
15 business that they carry on?

16 A. I suppose so.

17 Q. In paragraph 13, you use the
18 phrase -- or perhaps I will read from a somewhat longer
19 passage. From the third line in that paragraph:

20 Embark upon such an exercise whilst
21 occupancy of the forest is contingent
22 upon the marginal evaluations of the
23 timber industry.

24 What does that mean?

25 A. I meant that in the sense that the --

1 I meant that in the strictly economic sense of the
2 marginal cost of exploiting resource effects. It is
3 like the, for example, saying if the price of oil
4 reaches \$20 a barrel, we are going to go in there and
5 explore. It is the marginal cost of exploring for oil.

6 So that if people are living in a forest
7 which is -- if the price of timber reaches a certain
8 point, then they are sensitive to the fact that it
9 becomes an attractive proposition to industry. They
10 are living in a sort of contingent. They are remaining
11 undisturbed, if you like, or having no competition for
12 the resource is contingent upon the going price for the
13 wood. And no one is going to make any long-term
14 investments if one is living under such a sort of
15 contingent atmosphere.

16 Q. I would like to move forward now to
17 page 5 of the the witness statement, right at the top.
18 You refer to three different types of indigenous
19 conservation regimes, and I would like you to explain
20 briefly what each is: One being independent research
21 management operations; another being co-operative
22 management regimes; and a third being indigenous
23 conservation areas. Can you tell us briefly what each
24 of these three is.

25 A. Okay. Well, a good example of the

1 research management operation is the one that the
2 Makivik Corporation in Northern Quebec, an Inuit
3 organization, started soon after they had secured an
4 agreement, the James Bay agreement,

5 MS. FREIDIN: I'm sorry to interrupt.
6 But are we talking about the one --

7 THE WITNESS: The top of page 5, the
8 first few words. Examples of those three phrases
9 there, the three clauses.

10 MR. FREIDIN: I'm sorry, thank you very
11 much.

12 THE WITNESS: There is the one in Quebec
13 where they simply developed a local environmental
14 research capability and they did that by setting aside
15 a small amount of money. They hired two biologists
16 from southern Canada. They took on three to four Inuit
17 trainees, gave them a small lab and a couple of snow
18 machines and a boat, and they went off and they
19 decided, well, we are going to research arctic char,
20 beluga whales, and eider ducks, and they started a
21 management program that looked at these in terms of
22 local resources rather than in strictly scientific
23 terms. So the orientation of the research was towards
24 how can we sustain/exploit these species? What are the
25 limits accessible to us?

1 Another example of that is the bowhead
2 whale research program that was initiated by the Alaska
3 Eskimo Whaling Commission in 1975, when the
4 International Whaling Commission, so to speak, took aim
5 at what they defined as aboriginal whaling, which
6 before then had enjoyed an exemption. But having
7 disposed of the big whaling countries, the Russians and
8 the Japanese, or at least got them under control, the
9 International Whaling Commission decided to go for
10 bowhead whales.

11 And the reason was that they decided or
12 they used -- they decided that they were endangered
13 because the population figures at the time were 1200
14 whales and the estimates for the late 19th century was
15 something in the region of 50,000 to 80,000, and they
16 said there is 1200 left, therefore it is endangered.

17 The response of the Inupiat people who
18 hunt bowhead whales along the Alaska slope was to do a
19 hermit crab-like strategy. They formed their own
20 Alaska Eskimo Whaling Commission and they hired the
21 whale biologists who were not already hired by the
22 International Whaling Commission and the Alaska
23 government agencies to do their own bowhead whale
24 research program.

25 And it was very interesting to watch this

1 happen over the next ten years because the whales --
2 and they were doing some pretty sophisticated stuff,
3 underwater acoustical studies of whales, new ways of
4 counting whales, how many are there really out there
5 because the Inupiat whalers were insisting that there
6 were more than 1200, and this was a figure that had
7 been sort of shunted around in the past and taken on as
8 gospel.

9 And over the next I guess 15 years since
10 that was formed, they have been doing repeated surveys.
11 The scientists working for the Inupiat of course talk
12 to scientists who are working for the other agencies so
13 they share the same survey techniques and they share
14 the same doubts about or certainties about the
15 probabilities of those techniques.

16 Now over that period, the bowhead whale
17 population has increased from 1200 to I understand it's
18 7,000, which is way beyond the reproductive capability
19 of bowhead, but it is a function of increased surveying
20 intensity, counting intensity, rather than increased
21 reproduction capability amongst bowhead.

22 And now in both cases, the one in
23 Northern Quebec and the one in Barro, Alaska, local
24 people are now conducting surveys that previously were
25 done by scientists. And it works really well. They

1 have now taken over the -- in Alaska, they have taken
2 over the, I think the naval research lab at Point Barro
3 and it is now run as the Inupiat Research Centre

4 Co-operative management regime. One of
5 the best examples of that is the one that arose in
6 Canada over caribou, and that arose out of the great
7 controversy over whether or not the Kaminuriak herd
8 which uses the Eastern Keewatin tundra region and the
9 forested areas of Northern Manitoba and Ontario, so
10 it's hunted by Chippewayan, Cree and Inuit at different
11 times of the year, that herd was believed to be on the
12 point of extinction in 1979 -- well, not extinction,
13 but let's say serious endangerment.

14 It was down from a population of
15 one-quarter of a million in the early '50s to a
16 predicted 27,000 in 1979 I think it was or 1980. And
17 the territorial government clapped for the first time
18 restrictions on hunting it, and it became a real
19 controversy, a really serious controversy between
20 hunters, Indian and Inuit, and wildlife biologists and
21 government officials.

22 Two things happened to resolve that.
23 One, the survey that was thought would yield a low
24 figure of 27,000 actually gave a figure of 135,000
25 because they discovered that the caribou had moved

1 their breeding ground over the last five years --
2 sorry, not their breeding ground, their calving ground.
3 And the territorial government only had enough money to
4 do a survey of the old calving ground. Suddenly they
5 got a little more money and the result was not unlike
6 that of the bowhead whale. They found that they had
7 more caribou, so that helped the situation.

8 And then they simply started talking to
9 one another and they called in a specialist in video
10 communications and he got all these people talking to
11 each other. And out of that they formed a co-operative
12 management board for the Kaminuriak herd which had
13 representatives of the Cree, Chippewayan, and Inuit
14 communities, biologists and government officials.

15 They sat down and they aired all their
16 differences and they came up with decisions about sort
17 of the research that was required to the figures of
18 caribou they felt should be taken and not taken, and it
19 has been a great success to the extent that they are
20 now I think management boards for the Beverley,
21 Bathurst, and Porcupine caribou herds which have
22 emulated this initial example. So that's a good
23 example of co-management.

24 Indigenous conservation areas. The ones
25 I have mentioned in this brief are the ones that are

1 well known. - There is the Awa one in Colombia, Ecuador
2 and the Kuna one in Panama.

3 There are in addition the Resqueros in
4 Colombia that I was mentioning earlier. In Brazil
5 there are and have been what are called Indian Parks
6 for some time. And throughout Latin America, there are
7 in several countries under different systems of
8 nomenclature different kinds of indigenous area or
9 indigenous conservation areas.

10 I think I was drawing attention here to a
11 sort of declared intention in the title of this. It is
12 not just an Indian reserve, but it is something where
13 there is a self-conscious attempt to run it as a
14 conservation area which should have the same
15 recognition elsewhere.

16 And I sense, I wouldn't be surprised if
17 in a few years from now, Latin America anyway, because
18 that's where the most progress is being made in this
19 area, that these were not presented as a very serious
20 alternative to national parks because also in Latin
21 America, the term "paper park" is notorious as a way of
22 describing how effective national parks are.

23 The most cynical people say that they are
24 simply a way for the government to lock up resources
25 until they decide which of their friends in the

1 extractive industry they are going to allow access to,
2 which happens enough to make that a strong argument.

3 Certainly, parks are not managed in any
4 way as strongly as they are in North America in South
5 America, so I wouldn't be surprised if as more people
6 notice the example of the Awa and the Kuna and the Ache
7 in Paraguay that they say, "Well, this is a very
8 credible alternative to a National Park. It is
9 indigenous in the sense that it's happening here and it
10 is spontaneous." So I think this is an interesting
11 trend to watch.

12 MR. COLBORNE: Q. In the next paragraph
13 you refer to preservationist measures and the
14 desirability of their being buffered by areas in which
15 the sustainable use of wild resources is encouraged. I
16 know you have already spoken to an extent on this topic
17 and if you have explained it just tell me that you
18 have.

19 My question was going to be, if you have
20 not answered it: Why is it necessary for there to be
21 this complemented or buffering effect as between, for
22 example, parks and areas in which sustainable use of
23 wild resources is encouraged?

24 A. Yes, I mentioned the parks issue
25 before. It is simply two things. One, ecologically,

1 it is very difficult to protect an island of putative
2 natural habitat in the middle of a sort of sea of
3 altered habitat.

4 And secondly, in a lot of those areas
5 that sort of the conservation movement is now eyeing
6 from tundra to rainforest to desert, there are already
7 a lot of people living there and they have lived there
8 for a long time, and it is gradually the idea of
9 collaborating with the people there as opposed to
10 excluding them, which has often happened with national
11 parks in the past, is taking hold, and this brings me
12 back to the point I was making before.

13 Now as far as species is concerned as
14 opposed to areas, there are again two sort of
15 conflicting notions that I think will continue to be
16 always in conflict with each other within conservation,
17 and that is the one where you protect all the elephants
18 because they are elephants and they are beautiful and
19 they should be protected. And the other one which says
20 you can't protect all the elephants and you can't
21 enlist general support for doing so unless you prove
22 them to be of some kind of economic value. And this
23 extends not just to elephants but to vicuna and
24 crocodiles and several species of lizards, butterflys.

25 In the case of all these species, there

1 are two arguments constantly grappling with each other,
2 so to say, in conflict. One is complete protection and
3 the other one is a sort of utilization.

4 And amongst many groups in Latin America,
5 there is a considerable amount of interest in the idea
6 of sustained use, and there are some very strong
7 arguments for it in terms of -- certainly when you
8 consider the turtle is one, the iguana is another,
9 because these projects tend to place -- well, when they
10 place an economic value on this, the people come
11 committed to -- they have an interest in sustaining and
12 increasing their population.

13 Now the downside of that is if they start
14 to get -- if you take that tendency too far, you
15 proceed towards some sort of domestication which means
16 that you lose your original objective which was to find
17 some means of sustaining biodiversity because
18 domestication, you make more money - this is a
19 generalization - you make more money but you do lose
20 biodiversity and what people are looking for is a happy
21 balance.

22 The other problem with this sort of
23 farming wild creatures idea and it's particularly there
24 with fish is disease. And now I understand with all
25 the controversies that are ranging with bison, elk, and

1 moose farming or husbandry, or whatever you want to
2 call it, in the northern parts of the provinces, that
3 is another problem is disease. So there are very
4 practical problem in this, but it doesn't remove from
5 the fact that this is conceived of and has proved
6 itself to be a legitimate objective: the idea of a
7 kind of moderate use for economic purposes of wild
8 populations.

9 Q. In the next paragraph you refer to
10 the fact that more progress has been achieved in the
11 South than the North, that is, in relation to community
12 social forestry movement. Our stereotypes about the
13 South, that is, Latin America I suppose you are
14 referring to here, primarily, seem to be along the
15 lines that the governments are not progressive, that
16 minorities are oppressed, that those without power get
17 nothing, this kind of idea. And without adopting that
18 stereotype - it may not be true - it does go against
19 our expectations I would say. Why is this the case?

20 A. Well, it surprised me too. I
21 actually learned of this shortly before I put together
22 this draft, and it is something I am interested in
23 following through further. It came to me from
24 conversations actually in China with people from
25 Berkeley University who are very involved in community

1 forestry in India and Africa, so in this case this is
2 not so much a Latin American trend.

3 And I asked them why and they said,
4 "Well, it's partly a result of international aid
5 agencies looking at the results of big projects and
6 realizing that in many cases they are unsuitable and
7 looking for smaller examples.

8 The Scandinavian countries are very, very
9 supportive of this sort of community forestry project,
10 and so is CEDA in India and Africa. And these by the
11 way are not necessarily indigenous examples. Like most
12 of the examples as cited to me in my conversations with
13 people from Berkeley are of communities in India who
14 may or may not conform to some sort of definition of
15 indigenous, but they are essentially forest communities
16 who have been objecting to plantation schemes.

17 And having placed a fairly strong or the
18 vestiges or the memory of other ways of going about it,
19 they have managed to get enough support to be able to
20 really, I guess, cross the threshold from a situation
21 where you have a few promising examples that everybody
22 is talking about to one where there is a generally
23 accepted way of doing it.

24 And I think a good example of that is the
25 Chipco movement in India, in Northern India, which

1 started off as a local community -- well, regional
2 community response to the Indian forestry department
3 which was thought of, with fairly good reasons, to be
4 pretty well in the pockets of the forest industry. And
5 they were advancing projects, some of them supported by
6 aid agencies, to convert these south forests that I
7 mentioned to you earlier and similar kinds of habitat
8 to plantations.

9 And the Chipco movement originated quite
10 dramatically by the women in a number of these villages
11 wrapping themselves around the trees so that, you know,
12 you cut down the tree, you cut me down. And this was
13 thought of as sort of a new departure in forest
14 protection. It is not actually. It was adumbrated
15 about 200 years ago in Northern India where a local --
16 I don't know, I just call it a rajah, a local ruler
17 told his manager or whatever to build him a new
18 forest -- a new palace, and they went out and did the
19 same thing, decided we will cut down this forest in
20 order to build this palace. And the women then reacted
21 exactly the same thing, only then they cut them down
22 and they killed all the women.

23 And so I guess things have improved
24 somewhat because the Chipco movement saved the trees
25 and the people. And it just took off. It was one of

1 those spontaneous things which attracted a lot of
2 attention and other communities followed suit and the
3 reaction in this northern part of India, I think it is
4 Hamalfradesh (phoen.), not exactly sure, Hemashafradesh
5 (phoen.), was so strong and so spontaneous that the
6 forest department pretty well had to back down.

7 And since then, Chipco has sort of moved
8 on from being purely a sort of preventative, a
9 preventative action stopping the cutting down of
10 forests, to developing all kinds of alternative forest
11 plants of their own. And in that they have been
12 getting a lot of support from some of the aid agencies.
13 And that is an example that was given to me as progress
14 in the South being more -- and everybody was talking
15 about it as a singular example where the North has
16 something to learn from the south.

17 MR. COLBORNE: Madam Chair, it is after
18 twelve noon. I wonder if this would be a convenient
19 time for the luncheon recess?

20 MADAM CHAIR: How long do you expect your
21 examination to continue, Mr. Colborne?

22 MR. COLBORNE: I want to review that with
23 Dr. Poole, but I do believe that we will be progressing
24 much more swiftly this afternoon in reference to the
25 witness statement because what I have tried to do this

1 morning is cover the main points which I think crop up
2 throughout the written witness statement. So subject
3 to what Dr. Poole may tell me over the luncheon, I
4 think that we have now discussed most of those major
5 points. I am hoping that this afternoon I won't be
6 longer than an hour.

7 MADAM CHAIR: Mr. Freidin?

8 MR. FREIDIN: We will finish this
9 afternoon if he is an hour.

10 MADAM CHAIR: All right. And you have
11 your witnesses for Panel 5?

12 MR. COLBORNE: They should be here. They
13 were scheduled to arrive. I think they are.

14 MADAM CHAIR: Fine. We will be back at
15 one-thirty.

16 ---Luncheon recess at 12:02 p.m.

17 ---On resuming at 1:30 p.m.

18 MADAM CHAIR: Mr. Colborne?

19 MR. COLBORNE: Q. Dr. Poole, on page 4
20 of the witness statement you have a section titled:
21 The 1992 Agenda, and I know that you wrote that late
22 1990.

23 Tell me, have there been developments
24 since you wrote that paper which are of importance and
25 which you would add if you were writing it today?

1 - A. Yes, I make a couple of points about
2 two of the meetings there, one of them is the second
3 one listed, the Second Indian Congress on Conservation
4 and Natural Resources.

5 The first one of these was held in Panama
6 last year and it was hosted by the Kuna Indian
7 community and it was the first opportunity that Indians
8 were given to set their own agenda for conservation,
9 discuss conservation issues, and that agenda itself is
10 an interesting reflection of their interest because of
11 the priority they assign to land claims and demarcation
12 of land and so forth.

13 And the second one is actually being
14 organized by a Kuna Indian who is working for the
15 Indigenous Organization in Bolivia and it's now been
16 moved forward to December this year in order to be able
17 to really prepare for this whole raft of conferences in
18 '92 which are going to be quite critical and, as a
19 result of the meeting in Bamfield, the Canadian
20 representation is going to be quite a bit stronger than
21 it would otherwise have been because the
22 Nicoragonzales, the organizer, was at that Bamfield
23 meeting.

24 The other slight changes -- what I have
25 listed there is a National Parks Congress in Venezuela,

1 the agenda has been sort of moving about a bit and now
2 it seems to be pretty well confirmed and there's going
3 to be quite a large emphasis on indigenous issues and,
4 rather than being the kind of thing I alluded to
5 earlier where conservationists talk about indigenous
6 people in their absence, I understand there's going to
7 be a panel at this because I was asked to suggest some
8 names, a panel of indigenous people at this conference
9 who will be asked to relay to the conference what they
10 think about national parks and protected areas and what
11 their agendas are as far as these are concerned.

12 So I think these are changes that I have
13 noticed just in the last year as these conferences are
14 being planned.

15 Q. I would like to go forward now to
16 page 7, paragraph 24 of the witness statement, and in
17 this paragraph you refer to the fact that knowledge of
18 national systems has in the past been largely ignored
19 or dismissed by western scientists, but that now recent
20 work is showing the operational efficiency of such
21 knowledge.

22 Could you give an example or examples
23 that might be expressed in terms that Canadians would
24 have some familiarity with?

25 A. Hmm, yes. Yes, the one example --

1 one very striking example which is well documented from
2 the Amazon Basin concerns Kyapo practices and it came
3 out in a paper -- came out in papers over the last
4 couple of years that what to people in North America
5 and Europe who have taken so strongly to the rain
6 forest issues, who talk about the rain forests as
7 though it is a sort of virgin -- more or less a virgin
8 spontaneous forest occupied by people who live off it
9 but essentially off it, in the sense that they gather
10 from it again opportunistically, the evidence from
11 long, long conversations with Kyapo by one researcher
12 in particular, Darryl Posie over seven years, is that
13 he revealed the complexity with which the Kyapo
14 actually garden the forest.

15 That is the best analogy one can think
16 of. They don't just go out and get what's there and
17 know where to go and when to go to get it, they
18 actually create little subhabitats deliberately in
19 order to increase the probability of certain plants
20 that they find useful growing there.

21 And one of the easiest methods of doing
22 this is simply to fell a tree, because once a tree
23 is -- a large tree has fallen, it brings down the
24 surrounding forest that creates -- let's in the
25 sunlight, creates another kind of habitat.

1 The second technique that's used is
2 associated with clearing small patches of forest for
3 agriculture. Even after that cleared part is nominally
4 abandoned there are successional plants that grow
5 there, partly induced by the species they had planted
6 in the first place and partly induced by natural
7 recolonization processes that are used in a long
8 sequence of -- over a long sequence until it becomes
9 similar to the other forest.

10 Thirdly, there's a whole question of
11 transplanting, that the people who usually look after
12 this, the Shamans sort of thing, are actively involved
13 all the time in collecting plants, transplanting them,
14 experimenting with various, what are called - what's
15 that word for when plants grow well with other plants,
16 there's a technical word for it - plants that grow well
17 in company with each other, and also there are plants
18 which they use for weed control, pest control, that
19 kinds of things.

20 So a lot of the -- the interesting finds
21 that are coming out of the organic movement these days
22 in terms of companion plants - that's the expression -
23 and pesticide plants have been only done by Kyapo and
24 in a very sophisticated way for a long time, and now
25 that Posie's work has come out, so often happens in

1 cases like this, a lot of other work is coming out
2 which confirms the fact that this is common practice
3 throughout the Amazon Basin, and that what appears to
4 be us to be virgin, pristine, you know, untouched by
5 human hand forest, is very much a result of a lot of
6 planned deliberate activity mixed in, of course, a
7 natural context.

8 Q. At the bottom of page 7 in paragraph
9 27 you refer to an example of a conservation area in
10 Panama involving the Kuna people.

11 You told us this morning about an example
12 involving the Awa people. Tell me now about this Kuna
13 example?

14 A. Kuna -- that project started in the
15 late 70s and the Kuna Indians are fortunate enough to
16 have two members in the Panama Parliament, or whatever
17 legislative body they have, and they do have two
18 democratically elected members and they do -- they have
19 a large degree of control over their Kumaka, as it's
20 called, and this came because they helped out the
21 United States in 1926 in one of their ventures down
22 there, so the thge United States pressured the
23 Panamanian government to give the Kumakas a solid
24 political control, I mean the Kunas.

25 When the government planned a new road to

1 -- the Caribbean coast through their Kumaka, the Kunas'
2 strategy for stopping the road - because they had
3 observed that when you get roads you get colonization,
4 when you get colonization you get the end of indigenous
5 control - they got the assistance of the Smithsonian
6 Institute and they discussed various strategies for
7 preventing the building of this road and they decided
8 to make it into a Native preserve.

9 And it's interesting because this
10 reverses what the Awa did, the Awa surrounded their
11 natural area with a clearcut belt; the Kuna have used
12 this strip of wildland nature reserve to protect, which
13 is essentially a coastal strip of agricultural land and
14 fishing villages and gardens. So they did the
15 opposite, they used natural belts to protect an
16 agricultural area.

17 And they have -- since doing that they've
18 attracted an awful lot of attention on the part of
19 those conservationists who are looking for examples of
20 this sort of thing to validate their views, of examples
21 of working collaborations between indigenous people and
22 conservationists.

23 And they've established a fairly good
24 system there I think that's -- is there anything more
25 you would like me to say about that?

1 Q. What about access to this area by
2 non-Kuna people?

3 A. Well, they have established a small
4 research station and they invite biologists to go there
5 and do work and they provide them with basic logistical
6 facilities at a nominal cost I guess.

7 As far as -- the only other access is for
8 tourism and there was a time when they became
9 unretentive attention of the tourist industry because
10 the strip of coast they have along the Caribbean side
11 of Panama is about -- it contains about 300 islands and
12 it's pretty well untouched, compared with the rest of
13 the Caribbean coast, and they have -- they've had some
14 serious brushes with members of the, I guess, tourist
15 industry who -- one of them who built a hotel, made a
16 deal with a local Kasike and didn't consult the central
17 Kuna body which meets every night to discuss issues
18 like that and they burnt his hotel down, and then he
19 rebuilt it so they killed him.

20 And since then they haven't had any real
21 problems with tourism. Tourism is now limited to one
22 or two cruise boats that come in when the Kuna decide
23 it's time for them to come in, and they stay 24 hours
24 and then steam off again.

25 Q. You had mentioned in relation to the

1. ... Awa, I believe, that the national government found it
2 useful to have that area; if I'm not mistaken, you said
3 it was less expensive than having a military
4 establishment at the frontier?

5 A. Mm-hmm.

6 Q. I want to ask you about the Kuna.
7 What about the ability of the State of Panama to govern
8 itself when it has this area which seems to be separate
9 and independent; is this an issue in Panama, has this
10 been a problem?

11 A. It wasn't much of a problem with
12 Turijos because he liked Indians, you know, now
13 Noriega, I'm not sure, even though Panama is a very
14 small country I think that the Kuna area on the coast
15 is fairly remote, you know, most of the action in
16 Panama really centres around the canal and because of
17 the -- one of the reasons they prevented the building
18 of this road was to maintain some kind of control over
19 access to their area.

20 So even though it's not far away from
21 Panama City, it takes a long time to get there, and
22 most people don't go there unless they go to see the
23 Kuna and most people don't go to see the Kuna unless
24 they're invited.

25 Q. I can't resist asking, I didn't ask

1 you before, the people who--

2 A. They're quite nice, nice enough.

3 Q. --who were responsible for the demise
4 of the tourist hotel builder, were they brought to
5 justice?

6 A. I didn't think they found them,
7 difficulty finding witnesses or something like that.

8 Q. And who was the they in that case, is
9 it the Kuna themselves, or the did do the Panamanian
10 authorities maintain jurisdiction over that type of
11 thing?

12 A. I guess technically they would, but
13 in this case it was made pretty clear to them that this
14 fellow had received adequate warnings and there weren't
15 any witnesses anyway.

16 So it's difficult in a country like
17 Panama to have crime followed up unless it has a strong
18 political sort of side to it, you know.

19 Q. Maybe my question about being brought
20 to justice in Panama was loaded with incorrect
21 assumptions or oxymorons perhaps.

22 Anyway, I would like to go on to
23 paragraph 30 here. You say that there are cases of
24 indigenous societies that had previously been
25 dispossessed of their lands beginning to recover

1 authority over those lands.

2 Why? What is the process by which this
3 has begun to happen, as you say here, throughout the
4 Americas?

5 A. Well, I think in -- I suppose in
6 North America -- well, in Canada anyway, this is
7 something which has really taken a strong momentum
8 since 1973 -- was it 1973 when the Minister of the
9 Environment, Cretien right, he announced that the
10 period over which the policies towards Indians in
11 Canada would be sort of highly influenced by
12 presumptions about assimilation had ended and it was
13 recognized that there is something called a land claim
14 that will be settled, and I think it was in '73, or was
15 it '63; no, it must have been Cretien, it was '73 I
16 guess, that this announcement was made and this started
17 the land claim process.

18 And I suppose that was maybe influenced
19 by the Alaskan land claim settlement in 1970 which, in
20 turn -- well, that had been dragging on since 1914 as
21 an active land claim -- pursuit of land claims.

22 So I think that -- and in South America
23 this has been and always continues to be an issue
24 because we still have a situation in Latin America in
25 many areas which resembles that, I suppose, of the turn

1 . . of the century or earlier here where people are still
2 being encountered.

3 You know, the Awa for example. When that
4 Awa reserve was -- well, the process to the Awa reserve
5 was started about 10 or 11 years ago and there were Awa
6 who had never been contacted at all. The same
7 situation exists throughout Latin America, but you have
8 a more compressed time scale on it.

9 So land claims are a sort of recurring
10 issue and I think that the -- I don't see that -- in
11 paragraph 30 I haven't intended to say anything more
12 than make an observation to the fact that land claims
13 sort of continue to be an issue.

14 MADAM CHAIR: Excuse me, Dr. Poole?

15 THE WITNESS: Yes.

16 MADAM CHAIR: In South America was there
17 a history similar to that in North America where Native
18 peoples were given reserve lands--

19 THE WITNESS: Yes.

20 MADAM CHAIR: --outside of the sorts of
21 land claims we're talking about today?

22 THE WITNESS: Oh, where there were
23 treaties resulting in reserve lands?

24 MADAM CHAIR: Yes.

25 THE WITNESS: I'd be very cautious in

1 replying to that because I've had a few conversations
2 with very experienced Indian rights lawyers in Columbia
3 who won't see anything about Peru let alone the whole
4 of South America, so it's such a complex situation it
5 varies so much from country to country.

6 I have just come back from Brazil and I
7 have got a map that was given to me there which shows
8 various categories of Indian lands in Brazil, it has
9 Indian parks, it has Indian reserves, and then there
10 are some other areas.

11 There are areas that Indians normally own
12 but the process by which they get ownership and the
13 degree of ownership is, as far as I can tell, awfully
14 complicated, so it's very difficult to explain that.

15 I do know that the Columbian example, the
16 one that mentioned earlier, the Resquertos, is being
17 looked upon as a real breakthrough, regardless of what
18 went on before. So already Bolivian Indian groups are
19 saying: Well, we would like to follow the Brazil
20 example -- I mean, the Columbian example. Another --
21 there is Brazil Indian groups. In other areas people
22 are saying that they've sold away the shop.

23 MR. COLBORNE: Q. Dr. Poole, I would
24 like to turn to paragraph 35 on page 9 and here you're
25 saying that the notion of social or community forestry

1 places the needs of forest dwellers above those of the
2 timber industry.

3 My question is: If I understood you
4 correctly earlier, the type of forestry or at least the
5 type of logging carried out in a social or community
6 forestry situation is less efficient from a purely
7 economic standpoint; did I understand that correctly,
8 or would ordinarily be less efficient?

9 A. In the short term, yes.

10 Q. Well, maybe I should just go on to
11 ask the question. What implications would this have to
12 the economy of a highly industrialized nation like
13 Canada.

14 If you were moving any significant part
15 of forestry away from what we assume is a highly
16 efficient way of extracting logs to a less efficient
17 way; is that going to have an significant impact, or
18 are you able to answer that type of question?

19 A. Well, I'm not -- I don't have that
20 amount of detail at my fingertips about the Canadian
21 logging industry, but I have had the observation made
22 that in its general approach to its resource the
23 logging industry tends to trade off logs in a more
24 rawer state than, say, Brazil, I mean -- not Brazil,
25 Sweden, I have heard the observation made that there is

1 --less -- in general, there's less value added by the
2 Canadian logging industry than, say, the Scandinavian
3 logging industry. For every volume of logs taken the
4 proportion of jobs -- the proportion of jobs created in
5 Scandinavia, Sweden in particular, is more than double
6 that created in Canada as a result.

7 So I think that argues that the Canadian
8 logging industry is not as economically efficient as it
9 could be; on the other hand, they may make more money
10 in the short term for a given investment.

11 Q. I want to go on to page 12 of the
12 witness statement, paragraph 46.

13 Here you refer to the possibility or the
14 fact that the term forest peoples might include both
15 indigenous and non-indigenous groups, and you've
16 already spoken about the importance of land claims to
17 the formation of viable alternatives to the existing
18 dominant method of forestry.

19 How do you relate those two propositions;
20 that is, the importance of land claims settlements and
21 the fact that non-indigenous groups can also be forest
22 peoples?

23 A. I'm not sure I quite get the
24 question. Let me -- I'll give you an answer and you
25 tell me if it's the right one.

1 The observation I made before is about
2 these forest management regimes that I've observed
3 being more likely to emerge after a land claim
4 settlement or similar arrangement than before.

5 And I think equally I have made the
6 general observation that indigenous groups are more
7 likely to form alliances with other groups in the
8 environmental area, not the legal/political of course,
9 once a land claim settlement or similar arrangement has
10 been achieved.

11 And the reason for that is that once that
12 sort of, it's like a political hurdle, has been passed
13 it's as though an obstacle to finding common ground has
14 been removed, because the indigenous group in question
15 is not so obliged by virtue of being in a negotiating
16 position to maintain a hard line.

17 Does that -- it's not quite there; is it?

18 Q. Well, I think that does address the
19 point. Let me say this, I'm assuming when I asked that
20 last question then ordinarily a non-indigenous group is
21 not a group with a land claim?

22 A. Okay.

23 Q. Maybe I should have made that clear.

24 A. I see.

25 Q. So just assuming that that is true,

1 how do non-indigenous groups have the opportunity to
2 participate, if they wish to, in these alternative
3 forms of forestry that you've mentioned?

4 A. Ah-huh, okay.

5 Q. If they can't have access by the land
6 claim process?

7 A. Okay, I see what you mean. Right.
8 Okay. Well, in the case of Brazil, to take your
9 concrete example, and the Forest Peoples Alliance, what
10 they are aiming for are extractive reserves, that's one
11 of their objectives, to have extractive reserves
12 established which will be jointly used by indigenous
13 people and, in this case, mostly rubber tappers.

14 So in that sense the fact that the rubber
15 tappers don't have -- I guess you could say that, if
16 indigenous -- if an extractive reserve is set up for a
17 particular purpose, those people qualified to use it by
18 virtue of their purpose have access to the resources.

19 Q. In Brazil in the case that you've
20 mentioned, in the resolution of the issue in Brazil -
21 and I don't know and I'm not suggesting that it has
22 been resolved - but in the process that is unfolding,
23 are the non-indigenous groups, and let's use the rubber
24 tappers as an example, are they being excluded?

25 A. From...?

1 Q. From the solution, whatever that--

2 A. No.

3 Q. Whatever may be unfolding.

4 A. No. Their objective is to have --
5 prevent the forests that they use being cut down, and
6 within that forest they have areas which they have
7 traditionally or at least, you know, for generations or
8 so, used for rubber tapping.

9 They simply want to be able to do their
10 rubber tapping, plus to be able to harvest the other
11 resources they take, fruits and so forth.

12 Q. Dr. Poole, there are several pages of
13 very interesting summaries and descriptions of
14 organizations here, and I don't want to take time
15 before the Board discussing these, but I would ask you:
16 Do you have any sense of what the general thrust of
17 this obviously large international movement is at the
18 present time in the near future? What are we going to
19 see from this in the next two or three years?

20 A. You're asking me to be a
21 futurologist. I get the impression from talking to the
22 groups and making the visits I have over the last year
23 or so that 1992 is seen, for a variety of reasons, to
24 be a very critical year and people are saying not so
25 much: This is what is going to happen afterwards, as:

1 This is going to be a time we are going to -- this is
2 going to be our opportunity to put our stamp on what's
3 going to happen in the following couple of decades or
4 so.

5 So I get a sense of a lot of indigenous
6 organizations throughout the Americas getting organized
7 amongst themselves and between themselves to present a
8 case at -- during 1992 which has certain commonalities
9 and they all refer to events since the arrival of
10 Columbus.

11 And some of these, I imagine, will be
12 more hostile than the others, but I think there will be
13 a lot of it happening next year. And these
14 organizations, such as the ONSD '92 Conference in Rio
15 De Janeiro and the two conferences in Brazil and one in
16 Caracas will certainly provide venues for voicing this
17 perspective.

18 And I think, as a result of this, I
19 wouldn't be surprised if the sort of indigenous
20 movement generally throughout the Americas is a lot
21 stronger than it is now and a lot more mutually
22 supportive in terms of its goals and objectives.

23 Q. Later in the paper you talk about a
24 conflict often between national objectives and the
25 programs of indigenous peoples.

1. Do you see the matter that you've just
2 referred to; that is, the importance of these
3 conferences as in any way overcoming that conflict or
4 influencing it in any way?

5 A. Yes, I think there's a potential for
6 that. I was talking with one of the Brazilian
7 organizers of the ONSSED conference in Rio when he was
8 in Ottawa as a matter of fact and we were asking:
9 Well, what do you think -- how do you think things are
10 going to go? And he said: Well, he felt that there
11 will be a lot of national delegates standing up and
12 they will have been primed a short while before to talk
13 about things that they're not really experienced in by
14 their people, and he's not expecting any kind of
15 dramatic statements to come from the likes of national
16 delegations, and he said there will be an awful lot of
17 press there because this is the environmental event of
18 the year, and he said what will happen is the press
19 will go to the official pronouncements, they will
20 listen to those and then they will go to the NGO tent
21 and to the indigenous peoples tent and say what do they
22 think, and he feels that if the NGOs and the indigenous
23 organizations have really got consensus going on what
24 they think about these particular issues, they will be
25 able -- they would be in a position to capture an awful

1 lot of media attention and in the environment gain that
2 means a lot, it's one of the view sort of levers of
3 power that people in the environmental movement have as
4 we know.

5 So there's going to be a lot of jockeying
6 for that, and I could very well see -- I could very
7 well see some interesting developments come out of it.

8 The other point you asked about, about
9 the relationship between indigenous groups sort of
10 somehow transcending national policies, is something
11 that was pointed out to me when I was organizing this
12 Bamfield Conference, and the National Aboriginal
13 Forestry Association of Canada saw that meeting not
14 only as a way of just getting in touch with other
15 groups elsewhere who have similar problems, but also as
16 a way of - as they put it - sort of getting some
17 leverage on the provincial and national governments in
18 Canada who, while the provincial governments don't
19 support NAFA the federal government does, and they
20 receive support from them for their operations and they
21 want to make linkages beyond that because they feel
22 that what they're dealing with, the issues they're
23 dealing with are international issues rather than
24 national issues, and too often when they want to
25 achieve some particular goal national priorities, or in

1 some cases provincial priorities, obstruct them.

2 So they feel a sort of commonality that
3 transcends that.

4 Q. There is a reference in paragraph 85
5 on page 20 of the witness statement to indigenous
6 groups from northern industrialized countries not
7 qualifying for support from international development
8 agencies.

9 Why is that? Can you tell us anything
10 that applies to Canada there?

11 A. Well, yes. I've had limited personal
12 experience of that and that, again, has come from
13 organizing this Bamfield Conference where I attempted
14 to get some support from EEC, and there's an EEC
15 Environmental Agency that's been providing a lot of
16 money to groups in the south, forest peoples groups in
17 the south, and so I applied to the Gaia Foundation to
18 try and see if we could obtain some support, interest
19 from them, and the reply came back that: No, because
20 the Canadian Indians come from a wealthy country and so
21 they're just not on the priority of these aid agencies.

22 And I found this opinion echoed not only
23 from CETO but from other development agencies. And
24 it's slightly ironic because it's not so difficult
25 sometimes for Indian organizations here to obtain funds

1 to do national -- for activities that take place within
2 Canada, but it's very difficult for indigenous groups
3 here to get funds to do things internationally for the
4 reasons that we were talking about in the previous
5 questions, because I suppose the Canadian government
6 think that they will embarrass them politically or
7 contradict them internationally.

8 So it's not easy to get those kinds of
9 funds to get involved in international activities.

10 Q. At page 21, paragraph 9, you have
11 something to say about a commitment to hard negotiating
12 as the invariable method for seeking these; that is,
13 agreements.

14 And maybe I'm misreading you, but I get
15 the idea there that you're saying that national
16 governments tend to be committed to, "hard
17 negotiating"; is that right?

18 A. Yes, I think -- I guess an example is
19 negotiating between the United States government and
20 Canadian government on the issue of acid rain, and also
21 the recent position of the United States and the
22 British government on international negotiations about
23 climatic warming, and the same kind of things has
24 emerged in questions of cutting down carbon emissions
25 and ozone emissions and so forth, that you tend to

1 get -- you tend to have national interests influencing
2 the negotiations when what we're discussing is a
3 question of a finite -- it's a finite situation, such
4 as the amount of ozone that the atmosphere can
5 tolerate, or the degree of climatic fluctuation that
6 ocean levels can cope with.

7 And when you're trying to sort of seek
8 agreement on that, if a country like the United States
9 because of its destructive industry refuses to
10 cooperate in searching for a common solution, or when a
11 country like China, you know, refuses to contemplate
12 having refrigerators without ozone in it, then you have
13 got cases where national interests obstruct the search
14 for a solution which is ultimately going to affect
15 everybody.

16 And I set that against sort of the more
17 cooperative approach that comes when indigenous groups,
18 I have noticed on the international scene when they
19 tend to work together or to consider these things,
20 consensus seems to be easier to reach and is not
21 obstructed by such nationalistic considerations.

22 Q. When you refer to nationalistic
23 considerations, would the same logic apply if one said
24 provincial considerations in a country like Canada?

25 A. I would have to think of an example,

1 wouldn't I, to support that if I thought so. I
2 wouldn't be surprised, but I don't have any results at
3 hand.

4 I don't see why it shouldn't, and it
5 could go right down to the municipal level as well,
6 couldn't it.

7 MR. COLBORNE: Those are my questions.
8 Thank you, sir.

9 MADAM-CHAIR: Thank you, Mr. Colborne.
10 Ms. Gillespie?

11 MS. GILLESPIE: Madam Chair, I have a
12 couple of questions that arose from Mr. Poole's
13 evidence, if I might.

14 MADAM CHAIR: Go ahead.

15 CROSS-EXAMINATION BY MS. GILLESPIE:

16 Q. Dr. Poole, I was interested in your
17 evidence about the Awa and the Kuna examples.

18 A. Mm-hmm.

19 Q. I'm just -- I think you mentioned
20 that they have really exclusive use of those reserve
21 lands.

22 Does the state defer totally to the
23 indigenous groups' use of the reserve lands, or are
24 there any regulatory parameters to their use?

25 A. Well, I think in general there's --

1 the states in these places have reserved decisions over
2 subsurface rights. Then when -- in Columbia I know
3 there is an implied condition in the agreement by which
4 the Resquertos were set up which is that they not be
5 clearcut.

6 Q. An implied agreement?

7 A. Yes. It's an implied condition, I
8 said.

9 Q. An implied condition.

10 A. It's an implied condition and I'm
11 saying that very delicately because; one, I haven't
12 seen the text of the agreement; and, secondly, I have
13 the impression from talking to all the parties involved
14 in this, that the understanding is and it was given by
15 Captains, these are the community to Captains, and
16 Kasikes, that they intend to look after these forests
17 and keep them standing.

18 So I would imagine that if something else
19 was to happen then things could change as they do very
20 often in Latin America, nothing is ever. It's just as
21 national park boundaries quite frequently get changed
22 when resources are found within national parks, these
23 Resquerto boundaries could ultimately be changed simply
24 because the state invariably retains the final word and
25 final force to enforce that way.

1 Q. So it's your understanding that the
2 continuation of the traditional use is one of the
3 parameters that there would be on that kind of an
4 agreement?

5 A. This is a very delicate issue. It
6 always comes up when there's questions about what
7 people do in national parks, and I have encountered
8 many cases where indigenous people living within parks
9 - object to, and I think quite rightly objected to, being
10 told to how they should live if they continue to stay
11 within the park.

12 On the other hand, if you can have
13 another situation which seems to be the one that's
14 holding in Columbia, for example, whereby the people
15 who run the Resquertos state: This is how we are going
16 to run the Resquertos, these are our objectives, we are
17 going to look after the forest, we are the guardians,
18 this is what we are going to do. And that is another
19 situation. So it's a question of seeing what was going
20 to happen.

21 MS. GILLESPIE: Those are all my
22 questions.

23 MADAM CHAIR: Thank you, Ms. Gillespie.

24 Mr. Freidin?

25 MR. FREIDIN: Yes. I would like to begin

1. by filing the questions and answers to the Ministry of
2 Natural Resources Interrogatories to Panel No. 4 and
3 there are 11 interrogatories in total.

4 MADAM CHAIR: That will be Exhibit 1882.

5 ---EXHIBIT NO. 1882: MNR Interrogatories re: GTC
6 No. 3 Panel No. 4.

7 MR. FREIDIN: Madam Chair, these unlike
8 the other ones that we have filed have not yet been
9 collated so that the question and answer appear sort of
10 together.

11 If the Board finds it more beneficial in
12 that form, I can undertake to in fact provide you with
13 the answers in that format.

14 MADAM CHAIR: We do when the material is
15 extensive, but this isn't very large, so...

16 MR. FREIDIN: All right. (handed)

17 THE WITNESS: Thank you.

18 CROSS-EXAMINATION BY MR. FREIDIN:

19 Q. Dr. Poole, these were questions which
20 the Ministry of Natural Resources posed to the Grand
21 Council Treaty No. 3 and I'm just wondering whether you
22 can advise whether you had any hand in the drafting of
23 the answers?

24 A. Yes.

25 Q. And can I take it then that the

1 answers, particularly as we -- that Nos. 3 on in fact
2 were authored by you? Are there any that weren't
3 authored by you?

4 A. No, I think these are the questions
5 that we went over; aren't they? Yes.

6 Q. Thank you very much. If I might
7 follow along from a question that was asked by Ms.
8 Gillespie in relation to the Kuna and the Awa.

9 A. Yes.

10 Q. In the countries that those Native
11 people live, is there a department or any governmental
12 agency whose purpose is the protection or the sound
13 management of the environment?

14 A. Yes.

15 Q. All right. Now, let's look at the --

16 A. I'm not too clear about the Panama
17 situation now.

18 Q. All right. Well, let's deal with the
19 Panama situation. We have in the Panama situation, a
20 reserve I think you said was set up?

21 A. Yes.

22 Q. And outside that reserve what
23 regulation or controls, if any, are there imposed on
24 the industrial use of land, particularly logging?

25 A. In Panama the -- I imagine that

1 the -- what happens to the forest outside of Brazil is
2 a result of logging and colonization.

3 Q. All right. And I got the
4 impression --

5 A. And -- go ahead.

6 Q. And I got the impression when I read
7 your witness statement - and let's just stick with
8 Panama for the moment - that what we have there really
9 outside of those reserves is what has been referred to
10 or could be referred to as exploitation, it's the
11 movement ahead of colonization or logging for the sole
12 purpose of making profit with little, if any, concern
13 regarding the long-time effect on the environment.

14 Now, is that a fair representation of
15 what is going on there?

16 A. I would say that making profit is one
17 element of it and survival is another, because many of
18 the people who are involved in the colonization part of
19 it are otherwise landless campesinos.

20 Q. All right.

21 A. They're not making a profit in the
22 sense that they have a surplus at the end of the day.

23 Q. All right. In relation to the
24 logging activity or the activity of the forest
25 industry, am I correct that the industry there does not

1 give any weight or little weight, if any, to the
2 long-term effects on the environment of the activities
3 that they are engaging in; that is one of the concerns
4 that exists in that part of the world?

5 A. I think one could make that general
6 observation, that the logging in Latin America on an
7 industrial scale is not, as a rule, accompanied by or
8 followed by an intensive effort at reforestation as
9 this.

10 Q. And can we agree then in relation to
11 Latin America as well that in these areas where
12 industrial logging is taking place there is little --
13 there is no attention spent or concern directed towards
14 the identification and the protection of what is
15 referred to as non-timber values; plants, sites of
16 importance to Native peoples, wildlife and the like?

17 A. On the part of the logging industry?

18 Q. Yes.

19 A. I think one could probably make that
20 general observation again, though one would have to
21 qualify it with certain exceptions, I'm sure, and one
22 should also take into account the fact that it's not
23 just the logging industry that's responsible for
24 deforestation.

25 Q. The other causes of deforestation are

1 the colonization that you referred to?

2 A. Yes, and the set of regulations that
3 support colonization.

4 Q. And can you very, very briefly -- I
5 want to focus on--

6 A. Yes.

7 Q. --the forestry part of that. Just
8 very briefly, could you explain what you mean by that?

9 A. Okay. For example, in Ecuador too
10 the process which happens is this, and it also happens
11 in Columbia, to obtain legal title to a piece of land,
12 a family, let's say, needs to clear 50 hectares in one
13 country and a hundred hectares in another; once they
14 have cleared that they get title.

15 Now that -- so right there we have a
16 policy which encourages clearance, because you can't
17 get title by just enclosing a hundred hectares and
18 saying I'm going to manage this sustainably.

19 So what happens is in many cases the
20 people clear their hundred hectares, they get \$3 per
21 tree for the big ones, that keeps them going for one
22 year until the coffee comes up, after three years the
23 land is sour they go to cattle, then it becomes sour
24 for cattle and they go and clear another patch.

25 Q. Okay. Now, the answers that you gave

1 to me regarding the lack of concern and the lack of
2 regulation of the logging industry in Latin America
3 regarding these non-timber values, do the same answers
4 apply to the industry in south America?

5 A. South America.

6 Q. When you say Latin America, you were
7 talking about Central America?

8 A. No, no, I'm talking about Latin
9 America being where people speak Spanish or Portuguese
10 as a rule.

11 Q. All right. So you were talking about
12 Central America and South America as well?

13 A. Yes.

14 Q. Okay. And again, to follow up on the
15 question from Ms. Gillespie, you made the comment in
16 your evidence that in South America there is
17 demarcation on the ground, I think, of the areas that
18 are of interest to these indigenous groups, and I think
19 the reserves and the conservation areas are examples.

20 A. No, I didn't say the demarcation on
21 the ground, I said demarcation is a major issue and has
22 two fashion sets; one legal and how do to it on the
23 ground, how it can be done on the ground.

24 Q. All right.

25 MR. FREIDIN: Can I just have one moment.

1 Q. I take it that in these areas, either
2 the reserve area for the Kuna or the conservation area
3 for the Awa, that those people are free to in fact
4 engage in whatever activities that they wish to engage
5 in as opposed to being part of a larger scheme of
6 management in the country as a whole.

7 The reason I assume that is because you
8 told me there really isn't any management--

9 A. Yes.

10 Q. --or concern about the environment
11 effect?

12 A. Yes, I think one could make that
13 point. I think in the case of the Kuna, they have
14 committed themselves and they got the support of the
15 Smithsonian Institution and the World Wildlife Fund to
16 set up a nature reserve.

17 Now, in order to do that they said: This
18 is what we want to do in the nature reserve. And the
19 Awa are now, as I mentioned earlier, on the point of
20 wanting to have a biosphere reserve for which they will
21 make a parallel or similar commitment, otherwise it
22 won't become one.

23 Q. And could you just turn to the
24 Interrogatory No. 8 which is in the package of
25 documents that was just filed as an exhibit.

1 - And in this case we referred you to page
2 7 and 8--

3 A. Okay.

4 Q. --where we are talking about the
5 nature reserve of the Kuna in Panama and conservation
6 in Ecuador. We asked you whether there are any
7 - restrictions on the activities of other people in these
8 areas. We also you asked you to describe what land
9 used are available to other forest users in these
10 areas.

11 And I think the essence, you would agree,
12 of your answer is that these are areas where those two
13 indigenous groups basically have exclusive use of that
14 area and that there are no land use rights or rights of
15 entry to anyone else except with the permission of
16 those groups; is that true?

17 A. I'm not sure about rights of entry.
18 I know that the Awa reserve is very difficult to enter
19 anyway because I failed to do it after a week of
20 walking; and the other one, the Kuna one, you could
21 enter it by sea, I think it's a question of what you do
22 that's more at issue.

23 Q. All right. In the answer then in
24 relation to the Kuna where you say:

25 "In the Awa ethnic forest reserve other

1 people have no land use rights or rights
2 of entry."

3 What do you mean by rights of entry in
4 that context?

5 A. Did I say that?

6 Q. That's what the answer says.

7 Paragraph -- pardon me, Question 8 you said:

8 "Yes, there are restrictions."

9 And in answer to the question --

10 A. "Are there any restrictions in the
11 activities of other people in these
12 areas?"

13 Q. And then the next question -- and I
14 think the answer there was yes, and then we asked:

15 "Please describe what land uses are
16 available to other forest users."

17 I assumed that the rest of that answer
18 was answering the second question. And you said that:

19 "Other people; i.e., non-Awa people, have
20 no land use rights or rights of entry."

21 A. I'm sorry, can I just --

22 MR. MARTEL: The answer -- if you turn
23 over you will find the answer.

24 MR. FREIDIN: Oh, I'm sorry.

25 THE WITNESS: Oh, okay.

1 MR. FREIDIN: Q. That's why I usually
2 put them together.

3 A. Oh, all right. Okay.

4 Q. I'm sorry, Dr. Poole.

5 A. No problem.

6 Q. You have to sort of have your finger
7 on two pages.

8 A. Ah, okay, fine. I just looked at the
9 front page when I agreed that I did this.

10 Q. All right.

11 A. Right. Okay. Right of entry, this
12 escaped me. I must confess that I don't know what the
13 rules are about this thing, but this has got by me
14 somehow.

15 I didn't, at any point in the original
16 paper, suggest that nobody else had rights of entry;
17 did I?

18 Q. I'm not too sure.

19 A. It may be true, I'm not sure, it may
20 be true that Awa do not permit other people to enter
21 their reserve at all. It is true that other people
22 cannot go in and use the land without consulting with
23 Awa.

24 So on the question of right of entry, I
25 have to know what one does in cases like this, except

1 that it got by me somehow.

2 Q. All right.

3 MADAM CHAIR: That's a fair
4 clarification, Dr. Poole.

5 MR. FREIDIN: I think we should leave it
6 on the basis that it's not clear exactly what rights or
7 prohibition of entries there are, I think that's
8 sufficient at this stage.

9 MADAM CHAIR: Excuse me, Dr. Poole.
10 Could the Board just clarify with you, how large are
11 these two reserve areas, you describe the...

12 THE WITNESS: Okay. The Awa - I should
13 have that, shouldn't I. I know that the boundary of
14 the Awa area is 200 kilometres.

15 MADAM CHAIR: Long?

16 THE WITNESS: Long, yes, the length of
17 the boundary, and it's fairly circular, so one could
18 calculate the area as being I guess about 6- or 700
19 square kilometres.

20 There is right in the middle of the
21 reserve an enclave of other people, and that's a small
22 town on the border with Columbia that contains these
23 other people, and when you look at the -- so the
24 reserve looks like a doughnut with a very small hole in
25 the middle occupied by the other people.

1 And I know that there is a road that goes
2 from this place, Papadinoza, out to the local town, so
3 people certainly walk up and down that road and I
4 wouldn't imagine there's any problem doing that.

5 MR. MARTEL: In most of these countries
6 are these areas an exception to the rule though?

7 THE WITNESS: Yes.

8 MR. MARTEL: How does that tie in with
9 what's happening then in northern Ontario, and we have
10 the land claims that still have to be settled
11 eventually, but how do you take what you're indicating
12 is going on abroad and relate it to what in fact is
13 happening in northern Ontario?

14 THE WITNESS: I think it's related in the
15 sense that when the work that I have been doing here in
16 Canada and Latin America and, to some extent, elsewhere
17 I have encountered people and communities who have the
18 similar sort of objective, they're all looking for
19 something similar which -- you could roughly sum it up
20 as a continuation of a traditional way of life and
21 authority over that way of life and access to the
22 resources that they've always assumed were theirs to
23 use and that is now being, or is threatened to being
24 deprived of that access and that authority.

25 And in response to that people have

1 adopted a certain set of strategies in order to either
2 regain or reinforce or protect that way of life and the
3 resources upon which it depends.

4 And I think there is a lot of commonality
5 throughout the Americas in this issue and, to that
6 extent, I have found that this is -- my answer is, to
7 some extent, founded on a presumption that this would
8 be of use to people in northern Ontario because I don't
9 have as intimate a knowledge of the situation here I as
10 I do in further north and in the west and in the south.

11 But I have, as a general rule, found that
12 there is a tremendous interest in what other people are
13 doing who have the same historical cultural background
14 and are confronted with a similar kind of situation as
15 as a result of contact with or encroachment by large
16 resource companies and/or the frontier colonization.

17 MR. MARTEL: Until the land claims are
18 resolved then it really is, in your opinion at least, a
19 desperate situation because the indigenous people are
20 not in a position to really negotiate to achieve all of
21 this?

22 THE WITNESS: I'm not sure I know enough
23 to be able to give a well judged reply to that really,
24 because I just don't know enough about the land claim
25 situation in Ontario.

1 If you -- I'd like to be able to answer
2 the question. Is there another way of putting it?

3 MR. MARTEL: Well, I think everything
4 we're hearing and everything we've heard over the past
5 two or three years, if I'm reading the legal counsel
6 for the Natives, is that they are not in a very strong
7 position, have lost their traditional ways in many
8 respects, and are, I think, desperately grappling for
9 some say, some involvement, some benefit from the area
10 that they live in and which other people they consider
11 are exploiting.

12 THE WITNESS: Mm-hmm.

13 MR. MARTEL: I think I summarized it, I
14 hope, to Mr. Colborne's satisfaction and Mr. Freidin's,
15 but I think that's what we're gathering, and I'm just
16 drawing on your experience now, that in other
17 situations, unless you get a land claim, you really
18 aren't in as strong a position as you might be.

19 THE WITNESS: That is -- I should think
20 that is true; on the other hand -- usually when I use
21 that expression in the brief I said a land claim or
22 some similar agreement of access to resources.

23 And it's my understanding that that is
24 something which some communities in British Columbia,
25 for example, are trying to get, knowing that it's going

1 to take a long time to have the principle of aboriginal
2 land claims recognized by the B.C. government let alone
3 negotiate them.

4 They are settling -- they're aiming at
5 something else now and one or two groups have managed
6 to get that, to get access to resources.

7 And I -- at the moment, from what I've
8 been hearing over the last year or so, however
9- desperate the situation may be in some -- may appear in
10 some senses, and certainly how desperate it may be in
11 certain localities, it seems to me from my
12 conversations with Indian people involved in forestry
13 at a more regional and national level, and considering
14 the support they're getting and about to get from the
15 federal government, I would think that things are
16 looking slightly better than they were a few years ago.

17 MR. MARTEL: Well, there's some progress,
18 we've had a hundred years to do it.

19 THE WITNESS: Yes, that's true, yes.
20 I'm saying this as a result of the conversations I've
21 had with officials in relation to this Bamfield
22 Conference, and so I've learned about what northern
23 . affairs is hoping to do by supporting the National
24 Aboriginal Forestry Association.

25 I understand they're getting quite a

1 substantial grant of money quite soon which would
2 enable them to conduct a series of meetings and
3 workshops about Indian forestry across Canada and I
4 think the kinds of things that I've been talking about
5 are the kinds of things that they'll be talking about
6 in those meetings.

7 Now, those may turn out to be just
8 another set of meetings but, you know, they're doing --
9 they are going on.

10 MR. FREIDIN: Q. Dr. Poole, in your
11 evidence, and this was actually when you were going
12 through your resume and giving some indication of the
13 work you have been involved in--

14 A. Yes.

15 Q. --you indicated that you were
16 involved where indigenous groups got involved with
17 conservation, you also said you were involved assisting
18 developing resource utilization by indigenous people.

19 A. Mm-hmm.

20 Q. I took it from your answer that you
21 make a distinction between conservation and resource
22 utilization; is that correct?

23 A. Yes. I also said there's
24 considerable overlap.

25 Q. All right. And when you use the term

1 resource-utilization, does that mean environmentally
2 acceptable resource utilization, or are we just talking
3 about utilizing the resource without concern for its
4 acceptability from the environmental point of view?

5 A. Much that I have done follows two
6 patterns grids. One has been helping groups who
7 already take in, who already harvest a certain amount
8 of the resource, for instance, I have done it with
9 seals, caribou, musk oxen and eider ducks, and my
10 function in that area has been sort of advising and
11 helping people with finding markets and adding value
12 and that sort of thing.

13 The other area that I have worked in is
14 the area of primary harvesting, where you -- it's
15 simply a matter of deciding, one of the things one has
16 to decide is how many animals or fish one can take, and
17 the other thing is, of course, how you take them, the
18 economics of taking them.

19 But it's always -- it's a pre-condition
20 for any of these projects that I have been involved in
21 that it aims at sustainability without trying to sort
22 of magically define it.

23 Q. Could you --

24 MR. FREIDIN: Madam Chair, it's twenty to
25 three, I'm not too sure what your --

1 MADAM CHAIR: How much longer will you be
2 in cross-examination, Mr. Freidin?

3 MR. FREIDIN: Oh, I'll be some time.

4 MADAM CHAIR: How long is some time?

5 MR. FREIDIN: Oh, probably at least
6 another hour, an hour and a half. The witness' answers
7 tend to be lengthier than I anticipate, so I will
8 probably be most of the afternoon.

9 THE WITNESS: Well I'll cut them down.

10 MR. FREIDIN: Whatever you wish.

11 MADAM CHAIR: It's a good idea, Dr.
12 Poole. You can answer yes or no.

13 THE WITNESS: Oh really.

14 MADAM CHAIR: Yes. All right, we will
15 take a 20-minute break.

16 THE WITNESS: Don't know, can I say that?

17 MADAM CHAIR: Yes, you can say that.

18 ---Recess taken at 2:45 p.m.

19 ---On resuming at 3:05 p.m.

20 MADAM CHAIR: Before we get started, Mr.
21 Freidin, we want to make something an exhibit, it's
22 been in our hands for a while now, it is correspondence
23 from Catherine Blastorah with respect to Forests for
24 Tomorrow's Panel 2 evidence provided by Mr. Mark
25 Robinson, and we will make this Exhibit 1883.

1 And it consists of six pages, and the
2 date on the covering letter is May 24th, 1991.

3 ---EXHIBIT NO. 1480B: Six-page document with covering
4 letter dated May 24, 1991 from
Catherine Blastorah re: FFT Panel
5 No. 2.

6 MR. FREIDIN: Q. Dr. Poole, a question
7 arising from the discussion you had with the Chair
8 regarding deforestation and what that meant.

9 A. Oh yes.

10 Q. And you referred to land getting
11 converted into pasture and then it becomes sour after
12 three years and then you have another use and it goes
13 sour for that purpose, eventually people move on.

14 What do you mean by the phrase, the land
15 goes sour?

16 A. What -- this follows from a study
17 that the World Bank did in the 50s -- in the 60s rather
18 about projects that it supported. It discovered that
19 when it supported clearance projects for farming for
20 ranching which evolved at the time, they discovered on
21 average that after three years of clearance from the
22 commencement of pasturage the grasses were -- that they
23 would depend upon natural grasses growing up, it wasn't
24 seeded.

25 The natural grasses that grew up for the

1 cattle were palatable for three years and then they
2 tended to degrade to a very sour grass that the cattle
3 didn't eat, so that was the end of it as a ranching
4 proposition.

5 So the World bank no longer gives money
6 to support clearance of forest for ranching.

7 Q. And when you made the comment that
8 the same effects could be from clearcutting, I take it
9 that you were referring to the use of clearcutting in
10 the tropical forests that you were speaking about where
11 the land was clearcut for the purpose of ranching or
12 agriculture?

13 A. Yes, I was talking about tropical
14 forests in answer to that.

15 MR. MARTEL: Is my understanding correct
16 that the soils in many of those forests are not very
17 fertile?

18 THE WITNESS: Right. All the biological
19 action tends to be confined to the aboveground biomass
20 and the ground itself is little more than support for
21 the trees to keep them from falling down.

22 If you go into recently cut rain forests
23 you will see what looks like red clay and it's
24 laterized, so it's virtually a clay, and oddly
25 enough -- recently they've discovered, archaeologists

1- have discovered some patches of real soil in the Amazon
2 region, it's only after years of research that they've
3 discovered these patches of real soil where areas were
4 used by indigenous people for agriculture a long time
5 ago, it was as though there had been at some point an
6 agricultural culture that gave way to one that was
7 based on less agriculture and more gathering.

8 MR. FREIDIN: Q. So are you able to
9 agree, sir, that in addition to there being a
10 difference regarding protection of non-timber values
11 when you compare Latin America and Ontario, there's
12 also a significant difference in terms of the soils and
13 the ability of those soils to regenerate forests after
14 cutting?

15 A. Sorry, were you addressing me?

16 Q. I was asking you.

17 A. Oh, I'm sorry, you were looking that
18 way.

19 Q. Do you agree that there is -- we've
20 already spoken about one difference between the two--

21 A. Yes, mm-hmm.

22 Q. --in terms of protection of
23 non-timber values. Do you agree that there is, again,
24 a substantial difference between the soils of the
25 tropical forests that you are speaking of in Latin

1 America and that of the boreal forest of Ontario in
2 terms of its ability to regenerate forests on them
3 after clearcutting?

4 A. I would think that, yes, I would
5 imagine the soils of the boreal forest of Ontario,
6 though tending towards acidic, are certainly more soil
7 like than the ground on which rain forests...

8 Q. And I take it that you would defer to
9 the evidence of soil scientists in terms of that
10 particular subject?

11 A. Yes.

12 Q. Thank you. Dr. Poole, if you could
13 refer to paragraph 2 of the witness statement and this
14 is one of the pararaphs referred to you by Mr. Colborne
15 and, in particular, the last three lines where there's
16 reference to:

17 "...attention being given to the
18 self-evident success of indigenous people
19 as forest managers; that is, until their
20 forest become exposed to the colonial
21 frontier in all its past and present
22 variations."

23 Do you agree, sir, that whether
24 indigenous people can continue to be successful as
25 forest managers will depend on whether they carry on

1 traditional activities only or decide to enter into the
2 more European or Canadian type of utilization of forest
3 resources?

4 A. The implication there is that if they
5 were -- I'm sorry.

6 Q. All right.

7 A. I'm not used to this way of phrasing
8 questions, I'm sorry.

9 Q. Okay. Let me be more clear about it.
10 If the indigenous people decided that they wanted to be
11 involved in timber activities--

12 A. Mm-hmm.

13 Q. --in an industrial way--

14 A. Yes.

15 Q. --As it is carried out now for the
16 purpose of obtaining the same kinds of benefits that
17 the forest industry say they obtain--

18 A. Mm-hmm.

19 Q. --it seems to me that one could not
20 necessarily rely on the success that indigenous people
21 had as forest managers when they were carrying out
22 traditional activities to say: Well, because they
23 could do that they're going to be successful in
24 carrying out timber management in the industrial
25 logging kind of scenario?

1 A. Yes. If that implies that -- that
2 implies, of course, that industrial timber users are
3 not correct forest managers, right; therefore, if they
4 were to adopt those practices, yes, equally they would
5 not be -- they would abandon -- they would adopt a
6 non-management strategy, if you like.

7 Q. I'm saying that the activities that
8 have been described as traditional forestry
9 activities--

10 A. Yes.

11 Q. --are different than what have been
12 described as the activities of the forest industry?

13 A. Yes.

14 Q. And if the history and the knowledge
15 that native people have as a result of managing the
16 resource in the traditional way--

17 A. Yes.

18 Q. --i'm saying that doesn't necessarily
19 mean that they're going to have success in managing
20 forests if the activities are of the type that the
21 forest industry engaged in?

22 A. Agreed. I mean, if they were to
23 abandon their traditional practice and adopt the
24 practice of the timber industry, the answer is would
25 they -- they would no longer be good forest managers,

1 right?

2 Q... They might not, I'm not saying they
3 wouldn't be, but you can't necessarily make the
4 assumption that they will be?

5 A. No, but that does imply that forest
6 industry are not good forest managers.

7 Q. I don't think it does.

8 A. Ah, okay.

9 Q. I'm not suggesting --

10 A. No, I thought your question suggested
11 that by adopting the practices of the forest industry
12 they would abandon good management as well as their
13 traditional practice.

14 Q. Well, I didn't mean to suggest that.

15 A. Ah, okay.

16 Q. Maybe we'll get to the point through
17 some further questions.

18 A. Okay.

19 MR. MARTEL: Well, let me stop then right
20 there. Could they adopt the way that forest industry
21 has done here and, even applying the methods they've
22 used, could they adopt to this type of method of
23 forestry and be successful at it?

24 MADAM CHAIR: Excuse me. Mr. Freidin, I
25 think you've thrown us all off base here.

1 I think Mr. Freidin's question is, if the
2 Native peoples had a different objective in mind, if in
3 fact they wanted to exploit economically a forest
4 resource would they be able to do that - provide
5 pulpwood as an example - would they be able to do that
6 through traditional methods, or would they be obliged
7 given that objective to partake in today's economy with
8 respect to forestry, would they be obliged to undertake
9 industrial practices?

10 THE WITNESS: It's a matter of degree;
11 isn't it? I understand in Quebec that one group of
12 Cree have developed a joint venture with Kruger and,
13 therefore, now this group of Cree communities will be
14 working with Kruger and they will go to work a certain
15 area and they say that it's going to be -- the Cree say
16 that it's going to be sustainable.

17 I don't know any more about that
18 particular deal, but we have a case here where I guess
19 in principle they have -- either Kruger going to adopt
20 Cree traditional methods, or the Cree are going to
21 adopt Kruger, or there's going to be something in the
22 middle. I really don't see it as a kind of black and
23 white situation like that.

24 MR. FREIDIN: Q. All right. So I guess
25 it depends on what area of the world you're looking at

1 or what particular area of the province one may be
2 looking at, you may have a variation in terms of what
3 various Native groups might want to do in terms of the
4 blend - I think as you put it - between their knowledge
5 and sort of modern scientific knowledge.

6 You have to look at that blend to
7 determine what sort of environmental effects there
8 might be?

9 A. Yes. It's a very difficult problem.
10 I know it's a question of where you draw the line, and
11 it seems to me that what people are looking for are
12 methods of deriving an income from the forest which do
13 not mean the abandonment of certain practices that are
14 important to people, and this is not to say that some
15 people might be quite prepared to abandon those
16 practices and just become, you know, join the logging
17 industry as it is and say we are going to take this --
18 adopt this approach to forestry.

19 Q. All right. Well, just following
20 along from that, Dr. Poole, you made the comment in
21 your evidence, and this was in paragraph 10, that:

22 "An essential pre-condition for
23 indigenous groups to embark upon this
24 path of development...", you're talking
25 about community based alternatives--

1 A. Yes.

2 Q. --to industrial logging:

3 "...is an agreement over access to
4 resources."

5 In the context of that evidence you were
6 indicating that before land claims are settled or
7 there's an actual agreement as to what access to
8 resources will be, that it was not uncommon that the
9 parties to those discussions would take fixed positions
10 and one party would say that they want no development,
11 and that would probably be -- you know, the indigenous
12 group would say they want no development; is that
13 correct?

14 A. This has happened, yes.

15 Q. Okay. In your experience, is it
16 common or uncommon for activities which occur after the
17 land claim settlements have been made or after the
18 access to resources is given to be activities which
19 reflect the industrial activities as opposed to the
20 more traditional activity that those indigenous groups
21 have been speaking about?

22 A. The issues which I've referred to in
23 this document -- I mean, sure, the projects, the cases
24 that I've referred to in this document are different
25 from -- what I'm talking about is indigenous people and

1 conservation, not indigenous people and resource
2 exploitation or resource utilization; I'm talking
3 about -- the focus is indigenous people and
4 conservation, and the cases I'm referring to are where,
5 after a land claims agreement, an indigenous
6 organization takes on -- assumes certain conservation
7 responsibilities - land use management, sorry,
8 conservation area, wildlife regulation, wildlife
9 research, that sort of thing - and the end result is
10 the conservation effect, in the sense that biodiversity
11 is more or less maintained, but the motives for doing
12 that are different from those of the conservation
13 organization.

14 The kind of -- the polarity here is not
15 so much between indigenous people and let's say
16 industrial-scale resource users, it's between
17 indigenous people and conservationists, that's the
18 polarity I'm talking about here, and that's the one I
19 was alluding to on the earlier questions.

20 There are two different agendas; one is
21 the indigenous agenda for conservation which
22 contemplates a certain sort of resource utilization,
23 limited and controlled by principles which are
24 traditional, and the other one is conservation where
25 you just exclude people, which is more like the

1 national parks sort of conservation.

2 And these are the kinds of regimes that I
3 have been talking about that often emerge -- that's
4 more likely to emerge after a land claim agreement than
5 before it, because then you have secure tender and you
6 can say: This area is for hunting or for fishing,
7 sustainably.

8 Q. Leaving aside any of these
9 particular--

10 A. Yes.

11 Q. --or regimes that you're talking
12 about, in your experience are you aware of any
13 situations where after land claims have been settled
14 with indigenous groups that they have gone on to, in
15 fact, utilize the resources to which they have been
16 given access in the same manner as the non-Native
17 communities were using them, and I'm talking about
18 whether it's oil and gas--

19 A. Yes, I do.

20 Q. --whether it's timber; is that
21 something which is common in your experience?

22 A. No, it's not common, but it happens
23 and I referred to one earlier in Alaska and the
24 National Wildlife Refuge is an example of that, and
25 Doyan Foundation has -- sorry, Doyan Regional

1 Corporation based in Fairbanks has become involved with
2 petroleum exploration in that area.

3 Their rationalization for it is that they
4 have traded off some other lands that they own in
5 Alaska which were extremely sensitive ecologically for
6 doing -- prospecting lands that they consider can
7 accept it.

8 So they've done this with a lot of
9 qualification built into it and justifications and they
10 are still under -- they have been criticized heavily by
11 some of the Couchiching Indian communities who reside
12 in the area and I cited that earlier on as an example
13 of, that within any community, there are some people
14 who want one thing and some people who want another.

15 Q. Are you aware of any situations
16 where--

17 A. I wouldn't say it's common.

18 Q. All right. Are you aware of any
19 situations where indigenous groups have, after a land
20 claim settlement or being given access to resources,
21 have engaged in timber activities similar to those
22 which have been on by non-Native industry?

23 A. I'm not familiar with any examples.

24 Q. Are you aware, sir, as to what
25 intention - and I believe this may be a matter for

1 Panel No. 6, but Mr. Colborne will advise me - are you
2 aware, sir, as to how the Grand Council Treaty No. 3 or
3 the particular First Nations that make up that group,
4 intend to utilize the forest resource in terms of
5 logging activities?

6 A. No, I'm not.

7 Q. All right.

8 MR. COLBORNE: That is a matter which
9 Panel 6 will be addressing.

10 MR. FREIDIN: Thank you.

11 Q. If you could turn, sir, to paragraph
12 12 of the witness statement --

13 MR. MARTEL: Can we back up for a minute
14 because, again, maybe -- I seem to be falling behind,
15 but I'm trying to think these things out.

16 Isn't there a couple of Native groups in
17 B.C. who in fact have -- and are directly involved with
18 exploiting the timber resources in a large way similar
19 to the white community, but not totally, some of the
20 Indians bands where agreements have been reached?

21 THE WITNESS: Scott Trembleur Band,
22 Tanizul Lumber.

23 MR. MARTEL: That's one of them I think,
24 yes.

25 THE WITNESS: Yes. I'm aware that

1 they're existent, I don't know about their practices.

2 I was going to cite that and I thought,
3 well, I'm not really sure what they're doing, but I
4 know they are doing something which is more like
5 regular, if you like, lumber industry than the kind of
6 things that people want who are into holistic forestry
7 as they call it in B.C. That's one group, yes.

8 MR. FREIDIN: Q. Dr. Poole, have you
9 examined any timber management plans which have been
10 prepared by or on behalf of any bands within Grand
11 Council Treaty No. 3 to determine exactly what kind of
12 timber management activities they are contemplating
13 getting into in the immediate future?

14 A. No.

15 Q. Are you familiar with -- would you
16 agree, sir, that the examination of such timber
17 management plans, if they were recently approved by
18 bands, would be a good indication of the kind of
19 utilization they were contemplating to make of the
20 resource?

21 A. I don't know. That depends.

22 Q. In the Latin American situations
23 where you have the conflict between the logging
24 industry, and you described one situation where you had
25 the rubber tappers and the Native groups working

1 together--

2 A. Mm-hmm.

3 Q. --there you've got a situation with
4 loggers on one side and two groups working together on
5 the other.

6 We've heard evidence in this hearing
7 about conflicts between resource users involving a
8 greater number of people, we're talking about anglers
9 and hunters, we're talking about remote tourist
10 operators and the like.

11 Can you comment in any way as to whether
12 there are greater numbers of resource users and,
13 therefore, conflicts between resource users in the
14 Ontario setting as compared to the Latin American
15 setting?

16 A. Well, the focus in Latin America has
17 kept slipping in terms of loggers, but we should keep
18 remembering the fact that a lot of the people are --
19 there are two other major competitors, if you like, one
20 are people who tend to be poor, campicinos, colonists
21 and ranchers.

22 The people who -- the man convicted of
23 the murder and his son, or his son and his father of
24 Chico Mendez was a rancher not a logger.

25 Q. In both those other groups, other

1 than the loggers, they engage in these activities of
2 clearing the land and turning them into pastures?

3 A. The ranchers deliberately, the
4 colonists in a much more sporadic way.

5 Q. Okay.

6 A. They might want to have a coffee
7 plantation but end up with a ranch because they've got
8 dispossessed by someone stronger than them.

9 MR. FREIDIN: One moment, Madam Chairman.

10 Q. Is there any reason why North
11 American groups didn't get involved initially with the
12 movements which are spoken to in the witness statement?

13 I mean, why -- is there any particular
14 reason why the focus has been on the tropical forests
15 of South America and it's only now that the temperate
16 rain forest and the boreal forest are being
17 contemplated as being drawn into this effort?

18 A. I think probably the general
19 perception is that the situation in tropical forests is
20 the most serious of all the forest situations. I think
21 if one -- and that's one of the reasons why it has
22 attracted so much attention.

23 And there are other ingredients of
24 course, the fact that timber -- there's an awful lot of
25 wastage connected with the taking of that timber, there

1 is -- it tends to be exported to countries with a less
2 than enviable reputation environmentally such as Japan,
3 and so it has all the ingredients of a really strong
4 issue. For that reason a lot of attention is focused
5 on it.

6 What's happening now is that people from
7 those countries are coming here, as the person I
8 referred to earlier from Brazil, Tony Gross came here
9 and he said: Well, there's some quite interesting
10 similarities between the Brazilian situation and the
11 Canadian situation and he was talking about the boreal
12 forest as well as the temperate rain forest.

13 Q. Can you explain to me why it was
14 believed to be more serious in the tropical rain
15 forests than elsewhere?

16 A. Yes, because it is more serious, that
17 is why it's believed. We say it's more serious, the
18 rate of deforestation is faster, the chances are
19 probably less.

20 Q. It's the concern about deforestation
21 which is more serious?

22 A. I'm saying that the situation in
23 tropical forest areas is believed, and I think
24 correctly, to be the most serious of the forest issues,
25 if you like, on an alarmable basis.

1 Q. And what it is that has given rise to
2 that seriousness in fact is the deforestation which is
3 occurring?

4 A. As a result of a combination of I
5 guess colonization, fire, ranching and logging.

6 Q. Yes, thank you.

7 Would you turn to page 5 of the witness
8 statement, please, and at the top of the page you were
9 talking about those three trends--

10 A. Mm-hmm.

11 Q. --within the indigenous conservation
12 regime, and in relation to the community social
13 forestry movement, which is halfway down the page, the
14 last sentence you were directed to was the reference to
15 there being more progress being achieved in the south
16 than the north.

17 And I didn't understand your answer, and
18 perhaps I didn't think you answered the question
19 directly, and maybe I just didn't understand it. Could
20 you just sort of go over that again for me?

21 A. Okay. In the south, which is
22 generally, let's say, to my knowledge and to my
23 information Africa, India and to some extent Pakistan -
24 in the poor rather - there has been more achieved in
25 what is being called social or community forestry,

1 identifiably because it's perceived there as a
2 development problem, a development objective, if you
3 like, by the part of large development agencies
4 including CETO which has a very large social forestry
5 program in India.

6 And in terms of defining what it is,
7 supporting the emergence of viable or encouraging case
8 studies and projects, there are more examples of this
9 in the south than there is in the north.

10 Q. When you say the north, what are you
11 referring to?

12 A. North, let's say, North America,
13 Europe, Australia, the rich countries.

14 Q. All right.

15 A. And because here it hasn't -- for
16 various reasons which I'm not so sure about, it hasn't
17 received the same kind of attention.

18 Q. Can you turn to page 2 of the witness
19 statement, please. In the fifth paragraph where you
20 speak in the last sentence, you mention that:

21 "The WCS specifically draws attention not
22 just to the regenerative capacities of
23 traditional land uses but also to the
24 exhausted reservoirs of indigenous
25 ecological knowlege that are an

1 indispensable counterpart of traditional
2 practice."

3 I was just confused with the use of the
4 word counterpart. Does that just mean an indispensable
5 part of traditional practice?

6 A. Yes. I should say counterpart to,
7 shouldn't I? That's bad English.

8 Q. Oh, all right. Thank you. Turn to
9 page No. 3 of the witness statement, paragraph 12 under
10 the heading: The Significance of Land Rights and
11 Access to Resources, it's just above that that you made
12 this comment about there being an essential
13 pre-condition to environmental path of development, and
14 then in paragraph 12 you indicate in the last sentence
15 that:

16 "...the facts are that most...", and I
17 emphasize most:

18 "...indigenous conservation regimes have
19 evolved from land rights agreement or
20 a comparable agreement that confirms
21 access to resources."

22 Can you give so examples of indigenous
23 conservation regimes which have evolved which did not
24 involve land rights agreements or a comparable
25 agreement that confirms access to resources?

1 A. I didn't actually -- just at the
2 beginning of your question, I didn't actually say a
3 land claim agreement was a pre-condition for
4 development -- embarking on the path of development, I
5 said it was a pre-condition for these conservation
6 regimes emerging. But no, I can't.

7 Q. So we should not -- the word most
8 shouldn't be there. That suggested to me that some
9 developed without it.

10 A. No, it's a sort of qualification one
11 puts in when one doesn't know all the facts and one
12 assumes that one doesn't know all the facts.

13 Q. Okay.

14 A. I don't know what all these -- I
15 don't know all the regimes, I'm not in a position to
16 say what they are.

17 Q. I understand, thank you. Could you
18 turn to page 8 of the witness statement, please, and
19 just -- would you agree that, and I think this will
20 confirm what you said in Interrogatory No. 9, that
21 there's a correction to be made in paragraph 31?

22 A. Priorites.

23 Q. Yes, the word properties in the last
24 line should read priorities?

25 A. Yes, indeed.

1 Q. And so you're indicating that --
2 could you just summarize then what you're suggesting
3 here?

4 A. In that paragraph?

5 Q. Yes.

6 A. Yes. I'm referring to the -- I'm
7 referring to two perspectives on the same issue, and
8 I've encountered this a lot where environmental groups
9 are very anxious to form alliances with indigenous
10 groups, take the approach -- make the assumption that
11 the indigenous groups involved share their opinion,
12 their agenda and their perceptions of what conservation
13 is all about; i.e., conservation with a protective sort
14 of bias, you know, the original idea, the western idea
15 of conservation, and they very often do not appreciate
16 and understand that these issues are very often, if not
17 always, perceived from the indigenous side as a land
18 rights issue, and this happens in Latin America and
19 North America in my experience. It also happened
20 during the Bamfield Conference.

21 Q. My last question for you, Dr. Poole,
22 arises out of the statement of issues that was filed by
23 the Ministry of Natural Resources.

24 Just let me read to you a question which
25 we posed, and I can tell you that this question was

1 posed on the assumption that there is a difference
2 between the management of the timber or the forest in
3 Ontario compared to what happens in Latin America as
4 we've discussed.

5 A. Mm-hmm, okay.

6 Q. And in that context we asked the
7 question:

8 "What suggestions would the witness make
9 for positive roles and involvement by
10 Native people in a timber management
11 planning process while the legal
12 resolution of aboriginal and/or Treaty
13 rights or access to resources are
14 pending?"

15 Are you in any position to assist us in
16 that regard?

17 A. I'm sorry, could you just say one
18 more time, just the last bit.

19 Q. I think the best thing for me to do
20 is just give you a copy and let me try to rephrase it.
21 (handed)

22 A. Yes.

23 Q. We have heard evidence about there
24 being a timber management planning process in Ontario
25 which deals with lands outside of Indian reserves.

1 : It is the position of some parties here
2 that that management system in fact provides for
3 protection of the environment and for the renewal of
4 the forest resource.

5 A. Mm-hmm.

6 Q. Now, in your witness statement you
7 have made the comment that it is important for
8 indigenous people to be involved, that they should
9 be -- it's essential that certain access to resources
10 be provided, and I am just saying sometimes those
11 things don't happen overnight, and are you able to
12 comment on how -- are you able to answer that question
13 which is posed?

14 A. Hmm. Well, I know that there is a
15 process in place at the moment that is contemplated by
16 the National Aboriginal Forestry Association of which
17 Willie Wilson is a member, a Director I believe, so I
18 would hesitate to make any suggestions that might
19 pre-empt what they have in mind.

20 Q. All right. One of those questions
21 you'd like to answer just by saying you don't know.

22 MR. FREIDIN: Those are my questions.
23 Thank you.

24 THE WITNESS: Thank you.

25 MADAM CHAIR: Mr. Colborne?

1 RE-DIRECT EXAMINATION BY MR. COLBORNE:

2 Q. Just one topic by way of
3 re-examination. Dr. Poole, Mr. Freidin asked you about
4 the forest management regimes in Latin America that
5 apply outside of these areas that you have told us
6 about and that you have special knowledge about.

7 How much information do you have about
8 that type or those forest management regimes, if any?

9 A. These are regimes of a national
10 regional character?

11 Q. Yes.

12 A. I have very little information about
13 them, even to the point of not being certain how
14 extensive they might be or how potentially effective
15 implementation forces or mechanisms might be.

16 From my conversations with people from
17 NGOs in Latin America, indigenous and non-indigenous,
18 there tends to be a sense of cynicism on the part of
19 these organizations about the seriousness, I guess, of
20 government plans and, if the plans are in place, then
21 the effectiveness with which they can be implemented,
22 especially in a country like Brazil where you tend to
23 have -- you tend to have an ostensible authority in
24 Brazilia and the reality is regional power blocks.

25 MR. COLBORNE: Thank you. That is my

1 -re-examination.

2 MADAM CHAIR: Thank you.

3 Well, Dr. Poole, we thank you very much
4 for coming--

5 THE WITNESS: Thank you.

6 MADAM CHAIR: --to Fort Frances today and
7 appearing before the Board.

8 THE WITNESS: Thank you.

9 MADAM CHAIR: Good luck in your world
10 travels.

11 THE WITNESS: Thank you. I hope they'll
12 let me back after saying all these things about them.

13 MADAM CHAIR: Thank you very much.

14 Mr. Colborne?

15 MR. COLBORNE: It would be most
16 convenient for me if we continue with my Panel 5
17 evidence starting in the morning, I would even be
18 prepared to start early than to try to do a little bit
19 of it now,, my witnesses are here but they arrived only
20 this afternoon.

21 MADAM CHAIR: We will start at the
22 regular time, nine o'clock tomorrow morning, Mr.
23 Colborne.

24 MR. COLBORNE: Fine.

25 MADAM CHAIR: Yes, Mr. Freidin?

1 MR. FREIDIN: Madam Chair, I hate to sort
2 of say this but if you're willing to give me your spot
3 on the 8:10 on Thursday morning, Mr. Colborne and I had
4 a discussion and we think we probably might even get
5 out of here tomorrow afternoon.

6 He said he was going to be about a half a
7 day and unless something happens, my cross-examination
8 at the moment is planned to be 15 minutes. I'm not
9 sure what time the last plane leaves, but I just bring
10 that to your attention. Maybe we should discuss it off
11 the record.

12 ---Discussion off the record

13 MR. FREIDIN: Maybe Mr. Colborne and I
14 can just talk about it. I'm just thinking, Don, if he
15 start early, there is a chance that people can get out
16 tomorrow.

17 MR. COLBORNE: I haven't had an
18 opportunity to meet with my witnesses today - and they
19 may have something to say about this - but subject to
20 that, my guess would be one half day for
21 examination-in-chief, so it may be that those who are
22 flying out can be on the 2:15 flight tomorrow.

23 MADAM CHAIR: We will consider that, Mr.
24 Colborne, and if we want to start early we will get in
25 touch with everyone this evening.

1 MR. COLBORNE: Thank you.

2 MADAM CHAIR: Thank you.

3 Shall we begin -- and thank you, Dr.

4 Poole. I think we are going to have our procedural
5 discussion now and the witnesses never have to suffer
6 through these things.

7 THE WITNESS: Oh, fine.

8 --- (Witness withdraws)

9 MADAM CHAIR: Mr. Reid, did you want to
10 get started?

11 MR. REID: I'm ready any time.

12 MR. HAMPTON: Right away. Okay. Mr.
13 Freidin?

14 MR. FREIDIN: Can I just have one moment
15 to get our statement of issues.

16 MADAM CHAIR: Certainly.

17 Thank you very much, Mr. Reid, for
18 joining us in Fort Frances, and I don't think this
19 session will be very long this afternoon.

20 What we do is, the Board has gone very
21 carefully through your witness statements and we have
22 some questions for clarification of what you're saying
23 in this written evidence and we would like your
24 witnesses to consider these matters before they appear
25 before us in August -- August 26th, the planned date

1 for the beginning of your case.

2 And, as well, you might get some idea
3 from the Ministry of Natural Resources how long they
4 would be in cross-examination and from the Ministry of
5 the Environment, and I understand that Mr. Colborne
6 will not be cross-examining any of your panels.

7 Now, with respect to the first panel of
8 the Ontario Metis and Aboriginal Association, Mr.
9 Martel and I had two areas that we wanted clarification
10 in.

11 The first has to do with the population
12 estimates and some of the socio-economic data produced
13 in the reports by Marge Misek.

14 MR. REID: Marge Misek.

15 MADAM CHAIR: Marge Misek, because some
16 of that data refers to on-reserve Treaty Indian bands
17 and we want to make sure that we don't hear one set of
18 population numbers from Mr. Colborne's clients and then
19 some numbers from your clients and then yet another set
20 of numbers from Nishnawbe-Aski.

21 We want to have you, to the extent that
22 is possible, point out any discrepancies that exist
23 with what you may be saying as compared to Mr.
24 Colborne's client's evidence and Mr. Hunter's clients.

25 Presumably the discrepancies, as we can

- 1 see them from a reading of this material, is that you
2 might be using some different sources. We simply want
3 those kind of things readily identified so we know what
4 would explain the discrepancy.

5 We are not questioning that one source
6 has come up with numbers that should be identical to
7 another source, but we want very clear in our mind if
8 there are discrepancies among the various population
9 figures, we want to know why that is, and you will have
10 the benefit of directing Ms. Misek--

11 MR. REID: Yes.

12 MADAM CHAIR: --to Mr. Colborne's,
13 actually Panel 5 evidence.

14 And the second area that Mr. Martel and I
15 need some explanation or clarification for is exactly
16 who your members are. For example, both individuals
17 and communities are members of your organization and we
18 understand the individual membership; with respect to
19 aboriginal communities who are members of OMAA, it
20 seems to us that there are lots of different kinds of
21 these communities, and we were wondering in this
22 evidence about your organization and its constituents
23 if we could get some better definition of who these
24 communities might be.

25 For example, some of them appear to

1 ...reside on reserves or near reserves, some form separate
2 communities, some exist within urban areas, some were
3 at one time part of a Treaty and subsequently not part
4 of a Treaty, and we would like to see some abbreviated
5 explanation of all these different forms that your
6 communities might take.

7 MR. REID: That is fine. Is that with
8 Statement No. 1?

9 MADAM CHAIR: Yes.

10 MR. REID: I was planning on addressing
11 it. Do you want me to do it now? I'm sorry, I haven't
12 attended a scoping session, I'm not sure whether you're
13 asking me to explain it now.

14 MADAM CHAIR: No, that's fine. We were
15 asking for you to address it in your case.

16 MR. REID: Sure, I was planning to.

17 MADAM CHAIR: Thank you.

18 Mr. Freidin, did you have any questions
19 for Mr. Reid or any idea of how long you would be in
20 examination of this panel?

21 Are you examining this panel?

22 MR. FREIDIN: Yes. Half a day.

23 MADAM CHAIR: Ms. Gillespie, you are not
24 planning to --

25 MS. GILLESPIE: No, we're not planning at

1 this time. We are reserving our right if something
2 comes up in the oral evidence.

3 MADAM CHAIR: And that is also what Mr.
4 Cassidy of the OFIA is also doing. So -- and how long
5 will you be in direct examination of this panel, Mr.
6 Reid?

7 MR. REID: I have estimated one to one
8 and a half days.

9 MADAM CHAIR: All right, thank you.

10 One question, Mr. Olaf --

11 MR. REID: Bjorne.

12 MADAM CHAIR: Bjorne, which evidence is
13 he addressing in Panel No. 1?

14 MR. REID: He'll be describing the
15 various OMAA communities, how they've developed,
16 histories of some of the communities, various types and
17 forms of OMAA communities and the history of OMAA
18 itself, the structure of OMAA itself, how decisions are
19 made within OMAA and some working communities.

20 MADAM CHAIR: All right, thank you.

21 All right, let's move on to your Panel
22 No. 2 evidence which is entitled: The Impacts of MNR's
23 Timber Management Policies on the Aboriginal Peoples of
24 Eastern Lake Nipigon.

25 We have looked at the evidence of Harold

1 -- Michon, which is -- particularly at page 14 of the
2 orange tab, and Mr. Michon's evidence -- well, it
3 begins on page 14. On page 15 he attributes a decline
4 in wildlife, both furbearers and moose, to eight
5 examples of clearcutting to lakeshores and we would
6 like to know in Mr. Michon's opinion if buffers would
7 have gone any way towards preventing what he perceives
8 to be a decline in wildlife and, if that were the case,
9 would he have an opinion about how large those buffers
10 might be.

11 Also, on page 19 of the same document is
12 the written evidence of Sylvanus --

13 MR. REID: Nenakanogus.

14 MADAM CHAIR: Nenakanogus. And is Mr.
15 Nenakanogus' first name spelled with a 'y' or an 'a',
16 is that S...?

17 MR. REID: It's with a 'y'. Sylvanus is
18 S-y-l-v-a-n-u-s.

19 MADAM CHAIR: All right, thank you.

20 On page 19 he refers to a proposed
21 tender/sale cut approval map. Yours is the first --
22 various pieces of evidence in your case is sort of the
23 first time the Board's aware that we have been
24 introduced to the idea of this kind of a process within
25 MNR, although we might have received evidence in the

1 past and have not remembered it, but we notice in your
2 case particularly there are references to this sort of
3 process.

4 I don't think there's very much this
5 witness would want to describe for us with respect to
6 this process, but we simply advise the Ministry that
7 there will be an opportunity to explain to us what this
8 practice is and how long it has been going on.

9 But we did want a clarification and,
10 again maybe this a question for the Ministry and not
11 your witness, what is the Nipigon crown working circle;
12 is that the name of an area or --

13 MR. REID: Would you like me to explain.
14 As I understand it, it's an area assigned to the local
15 band, the Rocky Bay Band.

16 MR. FREIDIN: It will be a specific area
17 within a management unit which will be assigned for
18 specific management purposes and it may very well - and
19 I can't confirm this - but it might very well be an
20 area which has been assigned for management by the band
21 in some way, I don't know.

22 MADAM CHAIR: And could a working circle
23 include other activities on the unit not only timber
24 allocations for Native peoples, or would it refer to
25 other activities that would take place on a management

1 unit?

2 MR. FREIDIN: Are you asking if it's
3 created for the purposes of timber management or
4 whether it's created for the management of other
5 resources as well?

6 MADAM CHAIR: Yes. We just have never
7 heard this term working circle.

8 MR. FREIDIN: Well, again, if you want me
9 - to deal with this, again in that area the activities
10 would have to be conducted in accordance with an
11 approved timber management plan, therefore, would have
12 all the considerations which you've heard of, all the
13 factors considered.

14 MADAM CHAIR: All right. All I want, is
15 a working circle a boundary on the ground, some
16 demarcated area.

17 MR. FREIDIN: Yes.

18 MADAM CHAIR: All right, fine, thank you.

19 This doesn't have anything to do with
20 your witnesses' evidence, Mr. Reid, these are just
21 terms that we hadn't seen before until your evidence
22 came along.

23 With respect to Mr. Nenakanogus --

24 MR. REID: Either Nenakanogus or
25 Nenakwanogus.

1 MADAM CHAIR: Nenakanogus' evidence we
2 notice that he refers on page 19 to declining moose
3 herds with respect to a reference that he was able to
4 harvest 13 moose in one location in the winter of 1967
5 to 1968, and we weren't quite sure how to interpret
6 that.

7 Was that because the herds were so
8 numerous that what appears to the Board - I mean,
9 again, he can correct us if we're wrong, it seems like
10 a large harvest for that area - and is the implication
11 that the herds were numerous and it was possible to
12 harvest a large number of animals at that time and that
13 today the herd wouldn't be that numerous?

14 Also the area he's talking about, did he
15 ask for this area to be an area of concern. He's had a
16 conversation with the conservation officer and he's
17 communicated a concern about this area and when we turn
18 to the map we can see area 2 circled, and is this
19 circle simply to identify it for the purpose of his
20 evidence, or was this also identified with respect to
21 MNR's AOC process?

22 For both Mr. Michon and Mr. Nenakanogus
23 on page 15 of the same document -- no, not page 15,
24 page 8 of report No. 2, this is the first time the
25 Board believes it has heard evidence directly bearing

1 on the presumed effects of herbicide spraying on
2 animals whose flesh is consumed and also with respect
3 to -- we have a different set of questions about
4 spraying, but we would like to understand a little more
5 about these physical effects on animals with respect to
6 moose liver becoming soggy and the experience of this
7 meat having a bad taste and of various diseases that
8 these witnesses believe moose have contacted as a
9 result of herbicide spraying.

10 We understand that the consultant who
11 compiled this report has recommended that toxicological
12 and zoological studies would have to be undertaken to
13 verify this information, but we wondered at the same
14 time if there was anything else the witnesses could
15 tell us about these observations.

16 Also on page 15 the comment is made that
17 MNR has -- on a related matter -- Mr. Martel and I have
18 differently coloured documents.

19 MR. MARTEL: Witness Statement No. 2.

20 MADAM CHAIR: On the document at the
21 beginning of your witness statement, and it's entitled
22 Witness Statement No. 2 on page 15 the statement is
23 made -- the second full paragraph, the middle of the
24 paragraph the statement is made:

25 "Then again we also wonder about the

1 safety of spraying when we are told by
2 the MNR to avoid eating the heart, liver
3 and kidneys of moose or told not to walk
4 in these spray areas."

5 Again, with respect to the consumption of
6 moose, we don't believe we have that particular piece
7 of evidence in front of us and we would like to hear
8 from your witnesses on that.

9 And a final point on this witness
10 statement, various comments made about the destruction
11 of blueberry patches by herbicide spraying, and we
12 wanted to know from the observations of your witnesses
13 whether these blueberry growing areas recover, how
14 quickly they recover after spraying, and also to hear
15 from your witnesses on other evidence we have heard
16 that cut-overs and fire areas produce the most
17 abundant -- are among the most abundant blueberry
18 growing areas.

19 How long would you be in your
20 cross-examination, Mr. Freidin?

21 MR. FREIDIN: One day.

22 MADAM CHAIR: And how long would you
23 expect to be in direct examination, Mr. Reid?

24 MR. REID: I have estimated two and a
25 half to three days.

1 MADAM CHAIR: Also, could you tell us
2 which evidence will be addressed by Chief Teheron
3 McCrary?

4 MR. REID: The three witnesses, Teheron
5 McCrary, Sylvanus Nenakanogus and Harold Michon will
6 address the whole witness panel.

7 Mr. Petr Cizek is the consultant who
8 prepared the reports corroborating the witness statement
9 and he will be the fourth witness.

10 The three will explain the whole witness
11 statement together. They have different types of
12 expertise and have given different types of information
13 that explains the technical report, but the witness
14 statement itself, which is just the first part of this
15 Statement No. 2, is the statement of the whole
16 community since all three will be appearing as
17 spokespersons for the community.

18 MADAM CHAIR: All right, thank you.

19 Mr. Freidin?

20 MR. FREIDIN: My estimate might be -- I
21 guess if he said three days in direct, so one day is
22 approximate.

23 MADAM CHAIR: Witness Statement No. 3
24 whose author is Bradford Morris, and the topic is The
25 Relationship Between Aboriginal and Treaty Rights of

1 OMAA's Peoples and Environmental Assessments in
2 Ontario.

3 First of all, the Board did have a
4 question to put to Mr. Morris ahead of time and that
5 has to do with the statement he makes in his evidence
6 on page 26, where he says something to the effect that
7 the EAB hearings have received evidence on aboriginal
8 and Treaty rights and haven't done anything with the
9 evidence, haven't made any decisions on the basis of
10 the evidence.

11 Well to us -- well, Mr. Martel and I know
12 of no other hearings, other than timber management and
13 Hydro, no other environmental assessment board and
14 joint hearings we have been involved in that have
15 received such evidence, and neither of these panels, of
16 course, has made a decision on the application,
17 although we have addressed the parties in rulings and
18 intervenor funding decisions.

19 But I wanted to, in case Mr. Morris knows
20 something that I don't know about about various
21 hearings, I would be interested in hearing that.

22 And I believe, Mr. Freidin, we have a
23 copy of your statement of issue. Do you want to
24 explain to us, Mr. Freidin, what your statement is with
25 respect to cross-examining this panel?

1 MR. FREIDIN: The chances are I won't be
2 cross-examining this panel. If in fact the evidence is
3 restricted to what appears to be restricted to in
4 written form, and that is legal argument, it's the
5 position of the Ministry of Natural Resources that that
6 is what this witness statement is, that it's not the
7 sort of matter that is normally dealt with by way of
8 evidence, usually at the end the lawyers get up and
9 make legal argument.

10 I find it's unusual, but if Mr. Reid
11 thinks it's more expeditious to do that at this stage
12 rather than take the time of the Board or the courts to
13 deal with the propriety of that, we're just taking the
14 position that we will object to the evidence going in
15 and we will respond to it by way of legal argument at
16 the end of the case.

17 So chances are there won't be any
18 cross-examination and, if there is, it will be short.

19 MR. REID: My answer to that, Madam
20 Chair, would be that the MNR has presented evidence
21 fairly similar to Mr. Morris', they have used an
22 aboriginal Treaty rights expert. What they consider an
23 expert, Mr. Crystal, gave evidence on a lot of the same
24 issues that Mr. Morris is giving evidence on.

25 I would suggest that parties that didn't

1 object to that would be estopped from claiming that
2 this evidence should, or this witness-statement
3 shouldn't be introduced as evidence. I think it's
4 quite similar.

5 MS. GILLESPIE: Madam Chair, Mr. Cassidy
6 isn't here this afternoon but I had understood that his
7 client was considering the possibility of a procedural
8 motion concerning this panel.

9 I just wanted the Board to be aware of
10 that. I don't know whether a decision has been made or
11 not as to whether an objection would be taken to the
12 panel.

13 MADAM CHAIR: Well, Mr. Cassidy hasn't
14 informed the Board of that and he's, of course, had
15 that opportunity for several months and he leaves open
16 the possibility that he would cross-examine on Panel 3.

17 MS. GILLESPIE: I just wanted you to be
18 aware of my information.

19 MADAM CHAIR: Thank you, Ms. Gillespie.

20 MR. COLBORNE: Madam Chair, I wanted to
21 have a word with respect to this topic, which is why I
22 stayed.

23 Mr. Reid told me just in about three or
24 four words before the scoping session began that this
25 might be an issue and that is why I thought I might

1 advise you of my client's position.

2 Firstly, if OMAA, Mr. Reid's client, had
3 not called this evidence I had intended to call very
4 similar evidence, and I don't know if anybody here has
5 such perfect recollection as to recall that at one time
6 I was saying that I might have a seventh witness panel,
7 but I deferred by advising the parties finally on that
8 question for some considerable time, and finally - I'm
9 not sure if I formally told everybody - but it became
10 clear that at a certain point in time that I was only
11 calling six panels.

12 The seventh would have been very much
13 like this evidence that Mr. Reid is proposing to call
14 and, naturally, I didn't proceed with it primarily
15 because another party had and nobody here wants
16 duplication of that type.

17 Now, this may be a serious problem which
18 perhaps ought to be addressed and I'm not here with a
19 specific proposal in mind, but I see in interrogatories
20 which I have received with respect to my Panel 6
21 evidence ambiguity that may suggest the requirement for
22 some kind of formal application; the ambiguity being -
23 and I don't have it before me - but a suggestion
24 emanating from the Ministry of Natural Resources that
25 the existence of my client's aboriginal and Treaty

1 rights may be some kind of a legal issue here. I know
2 you've heard this before or something like this before.

3 Now, this creates a problem for me
4 because as recently as yesterday you'll recall I filed
5 a document saying that Mr. Freidin's ultimate boss, Mr.
6 Wildman, was standing in the very Legislature of this
7 province talking about my clients Treaty and aboriginal
8 rights, and yet Mr. Freidin is at virtually the same
9 time delivering the documents which suggest that it is
10 going to be argued here as a legal matter that they
11 don't exist, and this perplexes me. I'm not quite sure
12 what to do with it.

13 The basis upon which my clients are
14 proceeding here is that the existence of their rights
15 is not in issue, has never been in issue, and if that
16 is a correct assumption on their part, then their
17 proceeding before this Board makes sense; but if that
18 is an incorrect assumption, if Ontario is proposing to
19 say at some stage of these proceedings that no matter
20 what Mr. Crystal may have said, no matter what the
21 Minister may say, no matter what the law may be, at
22 least arbitrarily there is no such thing as a Treaty or
23 aboriginal right which my clients possess, then we are
24 going to be in a real fix.

25 I don't mean my client when I say we, but

1 perhaps the whole proceeding here, to a certain extent,
2 is going to be in a real fix by the time we get around
3 to legal argument. And it just seems to me that there
4 ought to be some clarification on this point earlier
5 rather than later and if this is the point to do it,
6 that is with reference to Mr. Reid's Panel No. 3, maybe
7 we should get it out of the way.

8 Those are my comments. But, as I say, I
- 9 don't have a concrete proposal, I'm just kind of
10 perplexed by this problem.

11 MADAM CHAIR: Well, let's go through this
12 for a minute.

13 The proponent is not objecting to this
14 evidence being entered by Mr. Reid as his third witness
15 panel, they believe in some way it constitutes legal
16 argument and they will address it at the end of the day
17 in argument.

18 I don't think that the case has been made
19 that the Board should be deciding on this application
20 on the basis of settling in the Province of Ontario the
21 issue of Treaty and aboriginal rights.

22 We went through a ruling two years ago
23 where the Board made it very clear that Indian bands,
24 Indian groups, OMAA, various groups, did have a stake
25 in timber management planning and were parties to this

1 hearing and the Board would look at issues of economic
2 allocation and participation in timber.

3 You have argued as well that you don't
4 want us making decisions about what are your rights
5 and -- you don't want us making those decisions about
6 what your rights are. I don't know if Mr. Freidin has
7 anything to say with respect to what he is going to be
8 arguing at the end of the day, but your concern is that
9 you want to know what that argument is now.

10 MR. COLBORNE: No, the distinction is
11 between this Board ruling or deciding upon what those
12 rights may be, which is not asked, and it being argued
13 before this Board at the end of the day that there are
14 or are not such rights; and if it is the position of
15 the proponent here that my client, for instance, does
16 not have such rights, well, I would certainly like to
17 know that now before I finish with my evidence.

18 Maybe that would influence, and I think
19 it would in some ways, the type of evidence I would
20 want to call. I might go so far as to want to have
21 summonsed before this Board senior officials of the
22 Government of Ontario to clarify for us whether or not
23 that is Ontario's position.

24 MADAM CHAIR: Mr. Freidin?

25 MR. FREIDIN: I haven't discussed this

1 with Mr. Wildman, but let me put it this way: It's my
2 understanding that there will not be arguments that Mr.
3 Colborne's clients do not have aboriginal and/or Treaty
4 rights, but there is an agreement between Mr. Colborne
5 and me that what he says in his witness statement is
6 correct, that the exact nature of those rights is
7 something which is undefined and, as he's aware,
8 something which is being proposed to be dealt with in
9 another forum.

10 So I think that perhaps answers Mr.
11 Colborne's question.

12 MR. COLBORNE: Well, it does in the sense
13 that I'm glad to hear that Ontario is not taking the
14 position here that my clients do not have Treaty and
15 aboriginal rights. I don't want to get into a lengthy
16 debate on the other point contained in what Mr. Freidin
17 just said.

18 Perhaps it will suffice if I just say
19 that I haven't agreed or said that they're undefined,
20 what I have said is that I will not be asking this
21 Board to define them or to decide on them.

22 And the other matter about being dealt
23 with in other forums, I can't sit here and say that
24 they are in fact being dealt here in other forums, that
25 may be desirable or it may not be, but I don't agree

1 that they are at this time.

2 MADAM CHAIR: You may not know, Mr.

3 Colborne.

4 MR. COLBORNE: This is true, I may not
5 know. Nevertheless, I don't think that those last two
6 qualifications - which perhaps Mr. Freidin and I could
7 quibble about for hours - matter very much, as long as
8 the central point that I raised is clear; and, that is,
9 that Ontario does not propose at any time before this
10 Board to come forward and say that my clients have no
11 aboriginal or Treaty rights. And that is satisfactory
12 to me.

13 MADAM CHAIR: All right, thank you.

14 Mr. Reid?

15 MR. REID: Yes, Madam Chair, I would like
16 to ask Mr. Freidin the same question on behalf of my
17 clients.

18 MR. FREIDIN: I knew you were going to do
19 that, Mr. Reid. I can't respond to that at this time.

20 MR. REID: Okay, fine. Can you give me
21 some indication as to when you might?

22 MR. FREIDIN: When I receive
23 instructions.

24 MADAM CHAIR: Well, are we asking for
25 instructions, Mr. Reid?

1 I think Mr. Reid is owed some indication
2 from the proponent before he begins his Panel No. 3
3 evidence.

4 MR. FREIDIN: That's no problem. I will
5 receive instructions and provide them.

6 MADAM CHAIR: As early as possible to Mr.
7 Reid?

8 MR. FREIDIN: I will.

9 MADAM CHAIR: Thank you, Mr. Freidin.

10 Last panel. Unless you plan to some
11 panels, Mr. Reid?

12 MR. REID: No, Madam Chair.

13 MADAM CHAIR: How long will you be in
14 direct examination of Panel 3, Mr. Reid?

15 MR. REID: I have estimated one day.

16 MADAM CHAIR: Is anyone keeping track of
17 this with a calendar?

18 Witness Statement No. 4 is entitled
19 Building a Partnership for Resource Management and
20 Development.

21 MR. REID: Madam Chair, maybe before you
22 start I'm not adding another witness statement but I am
23 hoping, subject to whether supplementary funding is
24 enough to do it, to add a witness to witness Panel No.
25 4, and if we do we can file the report which would be

1 in support of witness statement No. 4.

2 MADAM CHAIR: Is that witness identified
3 anywhere in this material now?

4 MR. REID: No, he isn't. I can tell you
5 now though and tell other parties who it will be and
6 it's simply a matter of arranging funding and
7 scheduling. It will be Professor Julian Dunster.

8 MADAM CHAIR: And what would be the
9 nature of his evidence?

10 MR. REID: His evidence would be to -- it
11 would be in support of the statements of witness
12 statement No. 4, the broad suggestions in witness
13 statement No. 4 that OMAA's communities are interested
14 in building a partnership with the province and federal
15 government in resource management and development.

16 Professor Dunster is an expert on what's
17 the generally broadly known as co-management of natural
18 resources and he would describe some existing
19 co-management arrangements and how some of these might
20 possibly be applied to OMAA communities.

21 MADAM CHAIR: All right. And you will
22 inform the Board as soon as you know?

23 MR. REID: I expect to know within two
24 weeks. I expect the funding order within a week and a
25 half.

1 MADAM CHAIR: Oh, has the parties been
2 told that?

3 MR. REID: No, I shouldn't say that. Ms.
4 Munro has asked everybody whose filing any
5 supplementary material to have it in by the 7th, by
6 this Friday, and that with the relatively few
7 applications, I'm expecting maybe Mr. Colborne has some
8 idea on this too, but I'm expecting she will probably
9 have a decision by the 14th.

10 MADAM CHAIR: I only ask because Mr.
11 Pascoe, we have instructed him to find out when the
12 supplementary -- when the funding decision will be
13 released because we have to have another meeting of our
14 parties to set the schedule into the future after that,
15 and that was my reason for asking.

16 MR. REID: I haven't been given a date, I
17 was just guessing based on Ms. Munro's past practice.

18 MADAM CHAIR: In this witness statement
19 at the pink tab which you have called Appendix B, it's
20 a brief by the Armstrong Metis or Anicinobic.

21 MR. REID: Anicinobic.

22 MADAM CHAIR: Anicinobic, and the brief
23 is dated September 19, '88 and there's a very detailed
24 discussion about the conditions of their community and
25 some aspects relating to forestry.

1 And we want to know if anything has
2 happened since this brief was presented to MNR and the
3 Ministry of Tourism and Recreation on September 12th,
4 1988.

5 With respect to Appendix C which is at
6 the orange -- I have an orange tab, did you tab these
7 or did our office tab them, Mr. Reid?

8 MR. REID: My secretary did tab them. I
9 hope she did them right.

10 MADAM CHAIR: No, that's right. I
11 wasn't sure. There's correspondence from the Denorwic
12 Aboriginal Alliance, and the writer of this
13 correspondence, this is also one of the witnesses, Mr.
14 Lewis Ainsley.

15 MR. REID: Yes.

16 MADAM CHAIR: And it would be of great
17 help if he's going to go through this correspondence
18 not to go through it piece by piece but say to the
19 Board, there was a situation and this was the outcome
20 and it went through a series of stages.

21 We have digested the correspondence and
22 we don't think it has to be gone through piece by piece
23 but just for him to say what went right and what went
24 wrong with respect to the outcome.

25 And we notice in the Appendix D on page

1 109, this is an article called After Native Claims by
2 Cassidy and Dale, and on page 109 we see our first
3 description of what's gone on with the Stuart Trembleur
4 Tanizul situation in British Columbia, and I simply
5 bring that to your attention because Mr. Colborne's
6 witnesses tomorrow might have something to say about
7 that.

8 MR. COLBORNE: I think they have
9 something to say about that, not a great deal.

10 MADAM CHAIR: All right. There is
11 discussion of several pages on what's going on with
12 that band and that situation and the Board has read it.

13 Your witnesses might want to read it
14 tonight, or they might not want to, but I just wanted
15 to alert Mr. Reid that what is going on there has been
16 drawn to the attention of the Board as a result of this
17 evidence.

18 MR. REID: Yes, thank you.

19 MADAM CHAIR: And there are two witnesses
20 on this panel, Mr. Henry Grant.

21 MR. REID: Wetelainen.

22 MADAM CHAIR: Wetelainen and Mr. Ainsley.

23 MR. REID: That's correct, and possibly
24 Professor Dunster.

25 MADAM CHAIR: Possibly Professor Dunster.

1 MR. REID: Under the circumstances, Madam
2 Chair, I have also been instructed to say that we would
3 agree to have Professor Dunster give his evidence at a
4 later date if it's a matter of giving the other parties
5 an opportunity to review the report that he will file
6 in support of the witness statement.

7 Professor Dunster is also willing to
8 attend for one day, perhaps a month later, if it can be
9 scheduled.

10 MADAM CHAIR: Where does Professor
11 Dunster work?

12 MR. REID: He's in British Columbia.

13 MADAM CHAIR: All right.

14 MR. REID: He has a slight scheduling
15 problem, his wife is expecting a baby during the last
16 week of August apparently.

17 MADAM CHAIR: And how long do you think,
18 given the add-on factor with Professor Dunster, how
19 long would you expect to be in direct examination?

20 MR. REID: Two days if it's only two
21 witnesses and a third day if I have Professor Dunster.

22 MADAM CHAIR: Ms. Gillespie, are you
23 cross-examining this panel?

24 MS. GILLESPIE: Yes, we are. We don't
25 anticipate being any more than two hours, and that is

1 the same for Panel 2, which I don't believe I gave a
2 time estimate.

3 MADAM CHAIR: For Panel 2?

4 MS. GILLESPIE: Mm-hmm.

5 MADAM CHAIR: All right, thank you.

6 MR. FREIDIN: One day, Madam Chair.

7 MADAM CHAIR: Thank you, Mr. Freidin.

8 Mr. Pascoe, does this add up to anything
9 like your original schedule?

10 MR. PASCOE: No, as usual it's over what
11 I was originally led to believe, but I think we will be
12 fine.

13 MADAM CHAIR: All right. Do you have any
14 questions Mr. Reid for the parties, or...

15 MR. REID: My only question, as I said,
16 would be whether any of the parties have any
17 preferences as to whether Professor Dunster appears
18 then or later.

19 I expect that if we get the funding and
20 we hire him he would have a report ready by mid-July
21 and I realize that that wouldn't give us a lot of time.
22 I thought the parties might want to have him appear
23 later, if they need time, if they want to consider
24 having interrogatories on his report.

25 MR. FREIDIN: I'm just wondering, do you

1 know whether he would be available -- be able to answer
2 interrogatories during the earlier part of August or
3 mid-August, because it's the fourth panel, so we have
4 got some time I think to be able to deal with the
5 interrogatories before Panel 4 is called.

6 MR. REID: I understand his wife is
7 expecting around the 20th, 25th of August, so as far as
8 I know early on would be okay.

9 MR. FREIDIN: Well, as long as he's
10 willing to do that we will just try to work out a time
11 which is convenient and get that before he appears and
12 hopefully we will have that and it won't be a problem
13 with cross-examination being delayed because there were
14 no interrogatory answers.

15 MADAM CHAIR: All right, good. Is there
16 anything else?

17 Okay, thank you very much.

18 ---Whereupon the hearing adjourned at 4:35 p.m., to
19 reconvene on Wednesday, June 5th, 1991, commencing
20 at 9:00 a.m.

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